

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/MH&FW/A/2018/159460-BJ

Mr. Prashant Reddy

....अपीलकर्ता/Appellant

VERSUS

बनाम

1. CPIO
Directorate General of Health Services
O/o the DCG (1) (RTI Cell)
FDA Bhawan, Kotla Road
New Delhi 110002
2. CPIO & Under Secretary
Drugs Regulation Section
Ministry of Health & Family Welfare
Nirman Bhawan, New Delhi - 110011

...प्रतिवादीगण /Respondent

Date of Hearing : 12.05.2020
Date of Decision : 26.05.2020

Date of RTI application	07.05.2018
CPIO's response	30.05.2018
Date of the First Appeal	05.06.2018
First Appellate Authority's response	04.07.2018
Date of diarised receipt of Appeal by the Commission	28.09.2018

ORDER

FACTS:

The Appellant vide his RTI application sought information regarding the copy of the reports and recommendations of the Office Order issued by the DCGI on 26 March 2013 and review processes adopted by CDSCO in granting approval for new drugs and clinical trials, in response to the comments made by the Parliamentary Standing Committee on Health and Family Welfare in its 59th Report headed by Dr. T. M. Mohapatra.

The CPIO, RTI Cell (O/o the DCG-I) vide its letter dated 30.05.2018 informed that Dr. T. M. Mohapatra Committee report was not readily available and therefore refused to provide information. The CPIO further transferred his application to the M/o H&FW u/s 6(3) of the RTI Act, 2005. Dissatisfied by the response of the CPIO, the Appellant approached the FAA. The

FAA, vide its order dated 04.07.2018 stated that as per the information obtained from the concerned division of CDSCO, report submitted by Prof. T. M. Mohapatra Committee was not available.

HEARING:

Facts emerging during the hearing:

The following were present:

Appellant: Mr. Prashant Reddy through WhatsApp / TC;

Respondent: Mr. R. G. Singh, CPIO through WhatsApp / TC; and Mr. Abhishek Chawardol, Drugs Inspector, Mr. Sushanta Sarkar, CPIO & ADC (I) (M: 8108523891), Mr. A. K. Pradhan, FAA & DDC (I) and Mr. R. K. Singh, Legal Consultant, CDSCO in person;

The Appellant reiterated the contents of the RTI application and stated that he had essentially sought the copy of the Mohapatra Committee Report which was malafidely denied by the Respondent claiming it was untraceable. However, subsequent to the issuance of the notice of instant hearing, the Respondent (DCG-I, RTI Cell) after waiting for 2 years, emailed a copy of the Mohapatra Committee on May 11, 2020 at 9:28 PM which was neither signed nor certified which indicated their malafide conduct. Elaborating his contention regarding the malafide conduct, the Appellant stated that the true reasons for the Respondent to suppress a copy of the report was due to the reason that the Mohapatra committee pointed out shocking lapses by the office of the DCGI in the approval of new drugs under the Drugs & Cosmetics Act. Many of these lapses border on criminal negligence. Similarly, Respondent (Drug Regulation Section, M/o Health and Family Welfare) also misled him. In its reply dated June 21, 2018 after Respondent No. 1 transferred the application to it, the CPIO stated it did not have a copy of the Mohapatra Committee Report. However as per the content of the report, Dr. Shailendra Kumar, Director, Ministry of Health was made a member of the committee. It follows that the Ministry of Health had to have a copy of the report. The Appellant further stated that there appeared to be a long running problem of missing files at the office of the DCGI. In its 59th report, the Parliamentary Standing Committee on Health and Family Welfare (Annexure E) made several observations regarding missing files at the office of the DCGI. In support of his contention, the Appellant referred to para 7.12 and 7.13 of the said report. Similarly, the Mohapatra Committee has also commented on the issue of poorly maintained records and missing files at the office of the DCGI. A reference was made to para 15 and 16 of the said report. It was also submitted that the Commission has pointed out in several previous cases that a missing file is an offence under the Public Records Act, 1993 and a legal inquiry must be conducted if a file goes missing. The Appellant requested to allow him the time to file a detailed written submission elaborating his contentions with supporting case laws.

In its reply, the Respondent (Drugs Regulation Section, M/o Health and Family Welfare) re-iterated the response of the CPIO/ FAA and stated that since the information sought was not available with them the application was forwarded to the M/o Health and Family Welfare u/s 6(3) of the RTI Act, 2005. It was further mentioned that the department on a number of occasions in its reply to the Parliament Questions had given a detailed action taken report on the recommendations made in the Report of Department Related Parliamentary/ Standing Committee with regard to the functioning of CDSCO. Thus while stating that an appropriate reply was given to the Appellant, the Respondent requested to furnish a detailed written submission through email by 15.05.2020 to elaborate the aforementioned submission.

In its reply, the Respondent (CDSCO, RTI Cell) stated that initially the documents sought by the Appellant were not held and available with them. However, subsequent to the receipt of the notice of hearing from the Commission, they had approached Prof T.M. Mohapatra personally who had provided

them a copy of the “Report of the Committee Constituted to review the Procedures and Practices followed by CDSCO for Granting Approval and Clinical Trials on Certain Drugs” which was forwarded to the Appellant in the form it was made available to them. During the hearing, the Respondent emphasized that the documents that were held and available with them were provided by them. It was also assured that a certified copy of the documents would be provided to the Appellant in accordance with the provisions of the RTI Act, 2005. On being queried by the Committee regarding the system of record keeping and the steps initiated by the Respondent to ensure to overall strengthen the drug Regulatory System, the Respondent requested to submit a detailed written submission through email by 15.05.2020 highlighting the various steps taken to strengthen the Drug Regulatory System and the Parliamentary Questions answered by the Government regarding the functioning of the CDSCO. The Respondent also submitted that since 2015, they had devised a mechanism for digitization and archiving their records. During the hearing, the Appellant provided his email id(preddy85@gmail.com) so that the Respondent could provide a copy of their written submissions to him and also requested for time till 16.05.2020, to submit his response.

The Commission was in receipt of a written submission from the Appellant dated 11.05.2020 wherein it was stated that he intended to raise the issue of missing files and that in the interest of transparency all the information related to drug approval should be placed in the public domain.

The Commission was also in receipt of a written submission from the Respondent M/o Health and Family Welfare, D/o Health and Family Welfare, Drugs Regulation Section dated 05.05.2020 wherein it was inter alia stated that the matter was examined and it was noted that the Appellant had sought the report submitted by the Committee headed by Dr T M Mohapatra to review processes adopted by CDSCO in granting approval of new drugs and clinical trials. The said committee had been constituted by CDSCO. As the report was stated to be not available with CDSCO thorough physical search of the Section was conducted for tracing a copy of the report. Electronic search was also conducted to trace the report. However, it was found that no such report was received in Drugs Regulation Section. Accordingly, a reply was sent to the Appellant on 21.06.2018. Furthermore, no first appeal was filed against the reply of the Ministry. The First Appeal filed with the CDSCO was disposed off on 04.07.2018.

The Commission was also in receipt of a written submission from the Respondent (CPIO, CDSCO, RTI Cell) dated 11.05.2020 wherein it was inter alia stated that with all possible efforts the relevant files were not available. However, the documents as received from the Expert Committee Chairman’s record had been provided to the Appellant vide letter dated 11.05.2020. It was also stated that the CPIO always acted reasonably and diligently with bonafide intent and did not have any intention to hide the information as sought by the Appellant.

Subsequent to the hearing, the Commission was in receipt of a written submission from the Respondent (Drugs Regulation Section, M/o Health and family Welfare) dated 15.05.2020 wherein in addition to the submission dated 05.05.2020 it was stated that a reply on the 59th report of the Department Related Parliamentary Standing Committee of Rajya Sabha on functioning of the Central Drugs Standard Control Organization (CDSCO) was sent to the Rajya Sabha Secretariat by the Ministry which was laid on the table of the house on 26.04.2013. It was further mentioned that the department on a number of occasions in its reply to the Parliament Questions had given a detailed action taken on the recommendations made in the Report of Department Related Parliamentary/ Standing Committee with regard to functioning of CDSCO. A copy each of the replies to three questions (Rajya Sabha Unstarred Question No.304 dated 18.07.2017, Lok Sabha Starred Question No.361 dated 13.12.2019 and Lok Sabha Unstarred

Question No.2714 dated 06.03.2020) was attached with the written submission. It was stated that the Department had in its reply dated 18.07.2017 to Rajya Sabha Unstarred Question No.304, had given the details of the action taken on the issue of grant of manufacturing license by State Licensing Authorities for a number of Fixed Dose Combinations (FDC) without prior clearance from Central Drugs Standard Control Organization (CDSCO). Similarly, in its replies dated 13.12.2019/ (Lok Sabha Starred Question No.361) and 06.03.2020 (Lok Sabha Unstarred Question 2714), the Department had informed the Parliament about the measures taken, based on regular review of CDSCO and its functioning, to address the various issues highlighted in the 59th Report of the Department Related Parliamentary: Standing Committee.

The Commission was also in receipt of a written submission from the CPIO, DGHS (CDSCO, RTI Cell) dated 15.05.2020 wherein while referring to the 59th report to the Parliament submitted on 08.05.2012, it was stated that the M/o Health and Family Welfare submitted its final action taken replies on the aforementioned report on 28.12.2012. The Ministry submitted the details of various steps taken to strengthen the Drug Regulatory System including the measure taken to streamline the process of New Drug approval and the recommendations of Dr Katoch Committee of experts constituted by the Ministry to examine the validity of the scientific and statutory basis adopted for the approval of New Drug without Clinical Trial and pointed out in the 59th report, etc. Subsequently, the Parliamentary Standing Committee had considered the action taken replies and made various recommendations for the implementation in its 66th report. Since then the matter relating to drug regulatory structures were being made more efficient had been taken on the findings and recommendations of those committees. The recommendations made by Dr Katoch Committee were further gone into by Prof Ranjit Roy Chowdhury Committee and various recommendations implemented. While referring to the various measures taken to address the issues, the Respondent referred to two Parliament Questions on functioning of CDSCO (1) L.S. Starred Q No 361 for 13.12.2019 and (2) L.S. Unstarred Q No 2714 for 06.03.2020 wherein the MPs had asked among others whether the Government had reviewed the functioning of Central Drugs Standard Control Organization (CDSCO) and if so, the details and the outcome thereof. Moreover, between 2017 to 2020, the Appellant had filed about 30 RTIs on various matters relating to the approval of three drugs (Buclizine, Letrozole & Aceclofenac and Drotaverin) which were also covered under the review by the Prof T.M. Mohapatra Committee. Thus, the CPIO had always acted reasonably and diligently with bonafide intent and did not have any intention to hide any information as sought by him.

The Commission was also in receipt of a written submission from the Appellant dated 15.05.2020 wherein it was inter alia stated that he had requested for a copy of the Mohapatra Committee report since May 7th, 2018. The Mohapatra Committee was constituted by an order of the DCGI on March 26, 2013 after a Parliamentary Standing Committee pointed out glaring irregularities in the grant of drug approvals. In their responses to the RTI application, Respondents No. 1 and No. 2 denied having a copy of the Mohapatra Committee Report claiming that it was untraceable. After waiting for 2 years, Respondent No. 1 emailed a copy of the Mohapatra Committee on May 11, 2020 at 9:28 PM which was neither signed nor certified. The actions of Respondent No. 1 smack of a malafide intent. It was evident from reading the Mohapatra Committee report as to the true reasons for the Respondent No. 1 suppressing a copy of the report. In pertinent part, the Mohapatra committee pointed out shocking lapses by the office of the DCGI in the approval of new drugs under the Drugs & Cosmetics Act. Many of these lapses border on criminal negligence. Similarly, Respondent No. 2 also misled the RTI applicant. In its reply dated June 21, 2018 after Respondent No. 1 transferred the application to it, the CPIO stated it did not have a copy of the Mohapatra Committee Report. However as per the content of the report, Dr. Shailendra Kumar, Director, Ministry of Health was made a member of the committee. It follows that the

Ministry of Health had to have a copy of the report. The Appellant further stated that there appeared to be a long running problem of missing files at the office of the DCGI. In its 59th report, the Parliamentary Standing Committee on Health and Family Welfare (Annexure E) made several observations regarding missing files at the office of the DCGI. In support of his contention, the Appellant referred to para 7.12 and 7.13 of the said report. Similarly, the Mohapatra Committee has also commented on the issue of poorly maintained records and missing files at the office of the DCGI. A reference was made to para 15 and 16 of the said report. It was also submitted that the Commission has pointed out in several previous cases that a missing file is an offence under the Public Records Act, 1993 and a legal inquiry must be conducted if a file goes missing. In this context, a reference was made to the decisions of the Commission in *Shri. Om Prakash v. Land & Building Dept., GNCTD (CIC/DS/A/2013/001788SA)* dated Aug. 29, 2014; *Balendra Kumar v. PIO, M/o Labour & Employment (CIC/BS/C/2016/000025)* dated Apr. 03, 2017 and *Shahzad Singh v Department of Posts (CIC/POSTS/A/2016/299355)* dated July 31, 2017. Thus, it was prayed to (a) provide him with a certified and signed copy of the report, along with the missing annexures; (b) impose a penalty on both Respondent No. 1 and Respondent No. 2 for not providing a copy of the Mohapatra committee report for a period of 2 years; (c) invoke its power under Section 19(8)(iii) of the RTI Act to order Respondent No. 1 to publish all information regarding approvals of new drugs on its website; (d) invoke its power under Section 19(8)(iv) of the RTI Act to order Respondent No. 1 to conduct an audit of all files and present a report to the CIC regarding the plan of action for missing files; (e) Invoke its power under Section 19(8)(vi) of the RTI Act to order Respondent No. 1 to provide a report of its compliance with Section 4(1)(b) of the RTI Act; (f) To order the Respondent No. 1 to register a FIR under the Public Records Act, 1993 so that an investigation may be conducted into the missing files.

The Commission referred to the definition of information u/s 2(f) of the RTI Act, 2005 which is reproduced below:

“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.”

Furthermore, a reference can also be made to the relevant extract of Section 2 (j) of the RTI Act, 2005 which reads as under:

“(j) right to information” means the right to information accessible under this Act which is held by or under the control of any public authority and includes”

In this context a reference was made to the Hon’ble Supreme Court decision in 2011 (8) SCC 497 (CBSE and Anr. Vs. Aditya Bandopadhyay and Ors), wherein it was held as under:

35..... “It is also not required to provide ‘advice’ or ‘opinion’ to an applicant, nor required to obtain and furnish any ‘opinion’ or ‘advice’ to an applicant. The reference to ‘opinion’ or ‘advice’ in the definition of ‘information’ in section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act.”

Furthermore, the Hon'ble Supreme Court of India in Khanapuram Gandaiah Vs. Administrative Officer and Ors. Special Leave Petition (Civil) No.34868 OF 2009 (Decided on January 4, 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."

This definition shows that an applicant under Section 6 of the RTI Act can get any information which is already in existence and accessible to the public authority under law. Of course, under the RTI Act an applicant is entitled to get copy of the opinions, advices, circulars, orders, etc., but he cannot ask for any information as to why such opinions, advices, circulars, orders, etc. have been passed."

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."*

The Commission observed that subsequent to the issuance of notice of hearing, the Respondent CDSCO provided a copy of the Mohapatra Committee Report which was not certified as per the RTI Act, 2005. In this context, a reference can be made to OM issued by the DoP&T No. 10/1/2013-IR dated 06.10.2015 wherein it was mentioned as under:

"2. In addition, wherever the applicant has requested for 'certified copies' of the documents or records, the CPIO should endorse on the document "True copy of the document/record supplied under RTI Act", sign the document with .date, above a seal containing name of the officer, CPIO and name of public authority."

Furthermore, the Hon'ble Kerala High Court in John Numpeli v. The PIO in W.P. (C) No. 31947 of 2012 (P) dated 31.01.2017 had held as under:

"I also find no merit or force in the contention of the respondents that grant of certified copies may give authenticity to the documents which may not be genuine or even fabricated. In the event of an applicant's request for information being granted all that the Public Information Officer would have to do is to certify that the copy is one issued under the Right to [Information Act](#), 2005. He is not called upon to certify that it is a copy of a genuine document. I therefore, find no reason why the first relief prayed for by the petitioner cannot be granted.

I accordingly allow the writ petition and direct the first respondent to issue a fresh set of documents sought for in Ext.P1 application other than the No Objection Certificate

issued by the Fire and Rescue Services Department on the petitioner paying the requisite fees and to certify the copies as copies issued under the Right to [Information Act](#), 2005. The needful in the matter shall be done and copies of documents issued within one month from the date of receipt of a copy of this judgment.”

The Commission thus observed that as per the provisions of the RTI Act, 2005 and various judgements on the subject matter clearly establishes that it is the duty of the CPIO to provide clear, cogent and precise response to the information seekers. Section 7 (8) (i) of the RTI Act, 2005 also states that where a request for disclosure of information is rejected, the CPIO shall communicate the reasons for such rejection. The Commission also referred to the decision of the Hon’ble Delhi High Court in J P Aggarwal v. Union of India (WP (C) no. 7232/2009 wherein it was held that:

***“ 7“it is the PIO to whom the application is submitted and it is who is responsible for ensuring that the information as sought is provided to the applicant within the statutory requirements of the Act. Section 5(4) is simply to strengthen the authority of the PIO within the department; if the PIO finds a default by those from whom he has sought information. The PIO is expected to recommend a remedial action to be taken”.
The RTI Act makes the PIO the pivot for enforcing the implementation of the Act.”***

8.....The PIO is expected to apply his / her mind, duly analyse the material before him / her and then either disclose the information sought or give grounds for non-disclosure.”

Furthermore, the Hon’ble High Court of Delhi in the matter of R.K. Jain vs Union of India, LPA No. 369/2018, dated 29.08.2018, held as under:

“9..... That apart, the CPIO being custodian of the information or the documents sought for, is primarily responsible under the scheme of the RTI Act to supply the information and in case of default or dereliction on his part, the penal action is to be invoked against him only.”

The Commission also noted that it should be the endeavour of the CPIO to ensure that maximum assistance should be provided to the RTI applicants to ensure the flow of information. In this context, the Commission referred to the OM No.4/9/2008-IR dated 24.06.2008 issued by the DoP&T on the Subject *“Courteous behavior with the persons seeking information under the RTI Act, 2005”* wherein it was stated as under:

“The undersigned is directed to say that the responsibility of a public authority and its public information officers (PIO) is not confined to furnish information but also to provide necessary help to the information seeker, wherever necessary.”

The Commission thus felt that there was an urgent need to develop a robust system of record keeping in the Respondent Public Authority and to review its efficaciousness periodically. In this context, a reference was made to the decision of the Hon’ble High Court of Bombay in the matter of *Union of India v. Vishwas Bhamburkar*, W.P.(C) 3660/2012 dated 13.09.2013 wherein the Court had in a matter where inquiry was ordered by the Commission observed as under:

“6.....It is not uncommon in the government departments to evade disclosure of the information taking the standard plea that the information sought by the applicant is not available. Ordinarily, the information which at some point of time or the other was available in the records of the government, should continue to be available with the concerned department unless it has been destroyed in accordance with the rules framed by that department for destruction of old record. Therefore, whenever an information is sought and it is not readily available, a thorough attempt needs to be made to search and locate the information wherever it may be available. It is only in a case where despite a thorough search and inquiry made by the responsible officer, it is concluded that the information sought by the applicant cannot be traced or was never available with the government or has been destroyed in accordance with the rules of the concerned department that the CPIO/PIO would be justified in expressing his inability to provide the desired information. Even in the case where it is found that the desired information though available in the record of the government at some point of time, cannot be traced despite best efforts made in this regard, the department concerned must necessarily fix the responsibility for the loss of the record and take appropriate departmental action against the officers/officials responsible for loss of the record. Unless such a course of action is adopted, it would be possible for any department/office, to deny the information which otherwise is not exempted from disclosure, wherever the said department/office finds it inconvenient to bring such information into public domain, and that in turn, would necessarily defeat the very objective behind enactment of the Right to Information Act.”

The Hon'ble High Court of Gujarat in the matter of Chandravadan Dhruv vs. State of Gujarat and Ors, Special Civil Application No. 2398 of 2013 dated 21.12.2013 held as under:

“24. Since the issue raised by the petitioner is of a vital public importance, we, on our own, made a little research on the subject and found that the Department of Personnel and Training of the Government of India has constituted a Task Force for the effective implementation of Section 4 of the RTI Act. As a part of this Task Force, IT for Change is facilitating a sub group on 'Guidelines for Digital Publication under RTI supporting Proactive Disclosure of Information'. As a part of the work of this sub-group a one day consultation was held on the said subject i.e. 'Formulating guidelines for digital publication under RTI supporting proactive disclosure of information' in Bengaluru.

25.3 How to ensure proper record keeping?

- The required level of proactive disclosure is not possible without appropriate record keeping, and this aspect needs focused attention. There are detailed rules for record keeping and they should be strictly followed and the scheme for it should be published. Record keeping practices may have to be reviewed from the point of view of comprehensive proactive disclosure requirements, especially through digital means.*
- Section 4.1.a is very clear about the need for proper record keeping, inducing in digital and networked form. Funds should be earmarked for digitizing records. Complete details of all records that are maintained and available digitally, and about those which are not, with due justification thereof, should be published. Annual reports on compliance with section 4.1.a should be sought by the Information Commissions.*

- *The costs involved in digitizing resources and maintaining networked computer based record-keeping and information systems is often cited as a major deterrent. It was felt that it is no longer a major issue. India is at par or better in terms of IT issues than many developed countries that maintain high standards of digital publishing of public information. The real cost is in terms human resources, including skills, and these are easily available at all levels in India today.*

- *An example was given about how a government office in Bangalore was able to scan all its documents at a very low cost. Another example that was discussed was of 'Bhoomi' project in Karnataka, whereby, it was contended that, if open public access to such complex spatial data as the land records of the entire state can be ensured, how can giving access to all textual documents of an office or department be any more difficult."*

The Commission observed that a voluntary disclosure of all information that ought to be displayed in the public domain should be the rule and members of public who *having to seek* information should be an exception. An open government, which is the cherished objective of the RTI Act, can be realised only if all public offices comply with proactive disclosure norms. Section 4(2) of the RTI Act mandates every public authority to provide as much information *suo-motu* to the public at regular intervals through various means of communications, including the Internet, so that the public need not resort to the use of RTI Act.

The Hon'ble Supreme Court of India in the matter of CBSE and Anr. Vs. Aditya Bandopadhyay and Ors 2011 (8) SCC 497 held as under:

"37. The right to information is a cherished right. Information and right to information are intended to be formidable tools in the hands of responsible citizens to fight corruption and to bring in transparency and accountability. The provisions of RTI Act should be enforced strictly and all efforts should be made to bring to light the necessary information under Clause (b) of Section 4(1) of the Act which relates to securing transparency and accountability in the working of public authorities and in discouraging corruption."

The Commission also observes the Hon'ble Delhi High Court ruling in WP (C) 12714/2009 Delhi Development Authority v. Central Information Commission and Another (delivered on: 21.05.2010), wherein it was held as under:

"16. It also provides that the information should be easily accessible and to the extent possible should be in electronic format with the Central Public Information Officer or the State Public Information Officer, as the case may be. The word disseminate has also been defined in the explanation to mean - making the information known or communicating the information to the public through notice boards, newspapers, public announcements, media broadcasts, the internet, etc. It is, therefore, clear from a plain reading of Section 4 of the RTI Act that the information, which a public authority is obliged to publish under the said section should be made available to the public and specifically through the internet. There is no denying that the petitioner is duty bound by virtue of the provisions of Section 4 of the RTI Act to publish the information indicated

in Section 4(1)(b) and 4(1)(c) on its website so that the public have minimum resort to the use of the RTI Act to obtain the information.”

Furthermore, High Court of Delhi in the decision of General Manager Finance Air India Ltd & Anr v. Virender Singh, LPA No. 205/2012, Decided On: 16.07.2012 had held as under:

“8. The RTI Act, as per its preamble was enacted to enable the citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority. An informed citizenry and transparency of information have been spelled out as vital to democracy and to contain corruption and to hold Governments and their instrumentalities accountable to the governed. The said legislation is undoubtedly one of the most significant enactments of independent India and a landmark in governance. The spirit of the legislation is further evident from various provisions thereof which require public authorities to:

A. Publish inter alia:

i) the procedure followed in the decision making process;

ii) the norms for the discharge of its functions;

iii) rules, regulations, instructions manuals and records used by its employees in discharging of its functions;

iv) the manner and execution of subsidy programmes including the amounts allocated and the details of beneficiaries of such programmes;

v) the particulars of recipients of concessions, permits or authorizations granted. [see Section 4(1) (b), (iii), (iv), (v); (xii) & (xiii)].

B. Suo moto provide to the public at regular intervals as much information as possible [see Section 4(2)].”

DECISION:

Keeping in view the facts of the case and the submissions made by both the parties, it was noted by the Commission that on its intervention, a reply was furnished to the Appellant. The Commission however expressed its serious concern over the record keeping methodology in the office of DCGI / CDSCO due to the fact that an important report relating to the review of procedures and practices followed by CDSCO for granting approval and clinical trials on certain drugs went missing from their office that had to be procured from the author after receipt of notice of hearing from the Commission. This is despite the fact that the Parliamentary Standing Committee had also taken cognizance of the lapses by the Public Authority. The intent and the conduct of the Public Authority should always be above board in matters relating to grant of approvals through a transparent and objective mechanism. **The Commission advises Secretary, M/o Health and Family Welfare, Govt. of India to examine this matter appropriately for further necessary action at its end.**

The Commission instructs the Respondent (CDSCO) to provide a certified copy of the information provided to the Appellant vide letter dated 11.05.2020 within a period of 30 days from the date of receipt of this order depending upon the condition for containment of the Corona Virus Pandemic in the Country or through email, as agreed. Moreover, taking into consideration the observations made in the preceding paragraphs, the Commission without commenting on the merits of the case, advises the Respondent to urgently initiate steps to streamline the process of digitization of records within the Public Authority so that the RTI applications/ First Appeals are dealt with in a time bound manner. The Commission also instructs the Public Authority officials to suo moto disclose its reports and other associated documents in the Public Domain for the benefit of public at large.

The Appeal stands disposed accordingly.

(The Order will be posted on the website of the Commission)

(Bimal Julka) (बिमल जुल्का)
(Chief Information Commissioner) (मुख्य सूचना आयुक्त)

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रति)

(K.L. Das) (के.एल.दास)
(Dy. Registrar) (उप-पंजीयक)
011-26186535/ kl.das@nic.in
दिनांक / Date: 26.05.2020

Copy to:

1. The Secretary, Ministry of Health and Family Welfare, 'A' Wing, Nirman Bhawan, New Delhi-110011.
2. Drugs Controller General of India, Central Drugs Standard Control Organization Directorate General of Health Services, Ministry of Health and Family Welfare, Government of India FDA Bhavan, ITO, Kotla Road, New Delhi -110002