

CENTRAL INFORMATION COMMISSION  
Complaint No. CIC/PA/C/2009/000011 dated 31-12-2009  
**Right to Information Act 2005 - Section 18**

**Appellant:** Shri Sarvesh Sharma

**Respondent:** High Court of Calcutta

**Heard & decision announced 23.9.2010**

**FACTS**

By an application of 16.1.2009 Shri Sarvesh Sharma of Common Cause, Vasant Kunj, New Delhi applied to the CPIO, High Court of Calcutta seeking the following information:

Kindly provide me with copies of the latest returns submitted by all the district courts under your jurisdiction in respect of different categories of case pending before them. These copies may be sent to me on CD or as hard copy (photocopies) as available.”

To this, he received a response dated 19.2.2009 from the High Court of Calcutta informing him as follows: -

“With reference to your letter dated 16.1.2009 on the aforementioned subject, I am to inform you that in terms of the Calcutta High Court (Right to Information) Rules, 2006, a person seeking information is to deposit a sum of Rs. 50/- preferably in the High Court, Appellate Side, Calcutta, treasury for the purpose of getting the desired information.”

With this direction appellant Shri Sarvesh Sharma complied on 27.2.2009 but on 16.2.2009 has moved a complaint before us against the number of High Courts in which the complaint against the Calcutta High Court is as follows: -

“While trying to obtain information on the RTI rules framed by various High Courts from their website for applying to them for information, we found that the High Courts at Calcutta, Chattisgarh, Guwahati, J & K, Karnataka, Orissa, and Rajasthan do not have any reference at all to RTI rules on their websites. The High Court at Mumbai has posted RTI rules on its website, which are called “Maharashtra District Courts, Right To Information Rules, 2006”. Presumably, a separate set of rules are to be applicable for

information from the High Court but they have not been posted on the website. Kerala High Court website has a button on RTI but the button does not function.”

“All rules made under the RTI Act must sub serve the Act and aim to achieve its objective and not hinder it. It is a basic tenet of jurisprudence that the Acts of Parliament must be construed according to their object and intent.

I am also enclosing copies of some of the responses received by us so far from various High Courts. These responses substantiate some of the foregoing complaints”

“I request you to kindly have the RTI rules framed by various High Courts, examined with a view to rectifying the deviations from the letter and spirit of the RTI Act. You may also like to ensure that High Courts proactively provide information on matters of public interest such as mounting backlog of cases in the Courts. In the context, it is only reasonable to expect that listing and other relevant information about cases of different category, pending within the jurisdiction of a High Court is made available on its website. This is already provided by section 4 (2) of the RTI Act, 2005 with the objective that public have minimum resort to the use of RTI Act to obtain information.”

On being directed by the Commission to make separate complaints in respect of different High Courts Shri Sharma in a letter of 4.8.2009 submitted the following complaint: -

“The High Court of Calcutta required that the fee be deposited in cash only and at the prescribed counter in the Court, thereby demanding a personal visit to the Court by the applicant or his representative.

I request you to kindly have the RTI rules framed by High Court, Calcutta, examined with a view to rectifying the deviations from the letter and spirit of the RTI Act, 2005. You may also like to ensure that the High Court proactively provide information under section 4 of the RTI Act, 2005 on matters of public interest such as mounting backlog of cases in the Courts with the objective that public have minimum resort to the use of RTI Act to obtain information.”

In response to our complaint notice the Calcutta High Court, through a letter of 11.5.2009 addressed to Shri Sarvesh Sharma with a copy endorsed to this

Commission has provided the information sought category wise Civil and Administration cases pending in the District Court as on 31.12.2009.

The appeal was heard through videoconference on 23-9-2010. Although informed of the date of hearing by our notice of 15<sup>th</sup> September 2010 there is no representative of the High Court of Calcutta present at NIC Studio Kolkata; efforts at contacting the Office of the Registrar General of the High Court of Calcutta failed on account of the telephone being out of service. Similarly other telephone numbers provided on the website of the High Court of Calcutta failed to respond. except in one case where the person called protested that the number was a home number. In the hearing the following are present.

**Appellant**

Shri Sarvesh Sharma

Shri K. K. Jaswal

Ms. Anumesh Jha

Shri K. K. Jaswal submitted that the complaint on the deviations of the spirit of the RTI Act by the Calcutta High Court are as follows:-

1. The High Court rules are not available in the website.
2. The rules of the Calcutta High Court demand the personal visit of the Court by the applicant or his representative, which is against the spirit of the law.
3. The fees charged for an applicant at Rs. 50/- are exorbitant, whereas proviso to subsection (2) of section 5 or the proviso to subsection (3) of section 6, requires that fees prescribed under subsection 6 (1) of subsection (1) and (5) of section 7 shall be reasonable. In the view of Shri Jaswal Rs. 50/- is not a reasonable fee. He further cited a decision of this Information Commission in which the Information Commission had directed a Government Organisation to bring the fees in line of the rules prescribed by Government.

**DECISION NOTICE**

1. Section 4 (1) (b) (v) requires that the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions. If, therefore, there has been a failure by the High Court of Calcutta to publish its rules under its law preferably by placing this on the website as mandated by section 4 (2), the High Court of Calcutta is directed under section 19 (8) (a) to take such steps as will be necessary to secure compliance of the Act by placing its rules on the website. This exercise will be completed within one month of the date of receipt of this decision notice under intimation to Shri P. K. P. Shreyaskar, Jt. Registrar, Central Information Commission. A model website of this kind which is recommended for examination by the High court of Calcutta is the website of the Supreme Court of India accessible at [www.supremecourtfindia](http://www.supremecourtfindia).

2. On the question of mode of payment of fees this is a provision of the law reserved for the discretion of the competent authority as defined u/s 2 (e), which in the case of High Court is Chief Justice of the High Court, as per section 28 (2). However, in this matter there is no doubt regarding the inconvenience that an applicant would face as pointed out by the complainant in the present case which is at variance with the several methods that have been prescribed both by the Govt. of India and by the Supreme Court of India and also High Court of Delhi in the modalities of paying this fee in order to ease access by a citizen. In this context, and as authorised by subsection (5) of section 25 this Commission recommends to the Chief Justice of High Court of Calcutta that the rules of payment may be so modified as to allow for easier access in keeping with the spirit of the RTI Act.

3. On the question of whether the fee charged by the Calcutta High Court is exorbitant or not we disagree with the contention of complainant Shri Sarvesh Sharma, who has, citing a judgement of this Commission of this nature, argued that what is fair for one department must be fair for all others. This argument cannot be held to be valid since the Act allows for

diversity by defining different authorities as the competent authority forms of information held. The lowest fees charged by any High Court in India are indeed not less than Rs. 50/-. Therefore, we cannot hold this to be an exorbitant fee calling for any intervention either in the form of direction or even recommendation by the Central Information Commission.

The complaint is thus allowed in part. There will be no cost.

Announced in the hearing. Notice of this decision be given free of cost to the parties.

(Wajahat Habibullah)  
Chief Information Commissioner  
23-9-2010

Authenticated true copy. Additional copies of orders shall be supplied against application and payment of the charges prescribed under the Act to the CPIO of this Commission.

(Pankaj K.P. Shreyaskar)  
Joint Registrar  
23-9-2010