

CENTRAL INFORMATION COMMISSION
Complaint No. - CIC/PA/C/2009/000007 dated 31.12.'09
Right to Information Act - Section 18(f)

Appellant: Shri Sarvesh Sharma

Respondent: High Court of Patna

Decision announced on 9 September 2010

Facts:

The Commission received a complaint from the Appellant, Shri Sarvesh Sharma pertaining to the “procedural difficulties”, “technicalities” and “complexities” faced by a hypothetical applicant in accessing information from various High Courts in India.

The complaint was pursuant to a request for information by the Appellant who wrote to the Joint Registrar (Judicial), at the High Court of Patna on 19 Jan 2009, asking for latest returns received from all district courts under the jurisdiction of that High court on different categories of cases pending before them. The appellant duly paid a fee of Rs.50 by demand draft on 17 Jan 2009, only to receive a response on 29 Jan 2009 from the relevant CPIO directing the said Appellant to deposit Rs. 50 in cash at the Counter of Accounts, as stipulated by the Patna High Court (Right to Information) Rules, 2005. The Respondent duly returned the bank draft of Rs. 50 to the Appellant.

On 16 Feb 2009, the Appellant wrote to the Central Information Commission in his capacity as Adviser to Common Cause, a civil society organization (CSO) ‘working on issues of common interest to citizens’, establishing the said CSO’s concern with the backlog of “*nearly 3.2 crore cases*” in various courts all over the country.

The Appellant detailed the disparate requirements established by various state courts in regard to Requests for Information. Specifically, the appellant

identified the High Court of Allahabad which “*demands a positive assertion that the motive for seeking information is proper*”, a requirement which he felt was at odds with Section 6(2) of the Right to Information Act, 2005.

In addition, the Appellant also detailed the differentiated application processes among High Courts throughout the country identifying the High Courts of Andhra Pradesh, Bombay, Jharkhand, Madhya Pradesh, Punjab & Haryana and Rajasthan as requiring payment of fees by way of adhesive court stamps whereas the Delhi and Patna High Courts require that fees be paid in cash only.

Finally, the Appellant highlighted the inconsistent fees required by High Courts throughout country for applications, pointing out the relatively high charges of Rs. 500 stipulated by the Delhi and Allahabad High Courts, in contrast to the High Courts in Gujarat, Madras, Madhya Pradesh and Patna which specify an application fee of Rs. 50. The Appellant contends that these fees are too high and are inconsistent with Section 7(5) of the RTI Act which legislates that “*...no such fee shall be charged from the persons who are of below the poverty line as may be determined by the appropriate Government.*”

Decision Notice

It is apparent to the Commission that the Appellant’s complaint does not pertain specifically to the original request for Information made to the PIO, Patna High Court. Without prejudice, there is little reason to doubt that the said PIO would have been obligated to present to required information to the Appellant had the latter complied with the procedure laid out in the Patna High Court (Right to Information) Rules, 2005, to promulgate which the High Court is “the competent authority” defined u/s 2 (e) (iii) of the RTI Act 2005. Accordingly, as there is no specific allegation against the CPIO, any issue of non-response does not stand. The complaint is therefore dismissed.

Separately, the Commission notes the latitude offered to state authorities by the law to determine the appropriate fees to charge applicants with regard to applications, as statutorily authorized by Section 7(5) of the RTI Act. However, the Commission acknowledges the inputs and feedback made by the Appellant, especially in regard to the Allahabad High Court's requirement that demands a positive assertion with regard to the motive for seeking information is "proper", a requirement that is seemingly at odds with Section 6(2) of the RTI Act. However this Commission may rule on that matter only in response to a specific complaint or appeal moved u/s 18 (1) or 19(3) of the Act. The Commission nevertheless appreciates Appellant's feedback for future reference.

Announced on this ninth day of September in open chambers.. Notice of this decision is given free of cost to the parties.

Wajahat Habibullah
(Chief Information Commissioner)
9.09. 2010

Authenticated true copy, additional copies of order shall be supplied against application and payment of the charge prescribed under the Act to the CPIO of this Commission.

Pankaj K.P. Shreyaskar
Joint Registrar
9.09 2010