

To,

31. 05.2010

Shri Wajahat Habibullah,
Chief Information Commissioner of India,
Central Information Commission,
306, 2nd Floor, August Kranti Bhavan,
Bhikaji Cama Place,
New Delhi-110066

Sir,

This is with reference to the written complaints dated February 16, 2009 (Diary No 10978), August 4, 2009 and the e-complaint dated February 8, 2010 (Complaint No RC/UG/10/1373oz1x) submitted to the Central Information Commission. Copies of these complaints are placed at Annexures A, B & C.

In each of these complaints, your kind attention was drawn to the difficulties faced by an applicant in accessing information from the various High Courts in the country due to procedural complexities and high cost involved in compliance with the rules prescribed by them. These rules and stipulations, which are in violation of Section 6(2), Sec 6(3) and Sec 22 of the RTI Act, 2005, make it virtually impossible for a common man to secure the desired information.

The issue brought to your notice in these complaints was **not** the refusal or denial of information by the High Courts on the ground that the complainant had failed to comply with the prescribed procedures. **The significant issue highlighted in these complaints was that the rules prescribed by the various High Courts are an impediment to accessing information. The Hon'ble Commission was accordingly requested to examine the rules framed by various High Courts with a view to rectifying the deviations from the letter and spirit of the RTI Act, 2005 and pass appropriate directions in this regard.**

It appears that this concern has been overlooked by the Commission, as is evident from its letter to the High Courts of Jaipur, Bombay, Jabalpur, Patna and Bangalore dated April 29, 2010 and to the High Courts of Allahabad and Kolkata dated May 5, 2010 directing them to offer their comments "*.....giving justification for denial of information...*" The fact that some of the High Courts, viz Bombay, Jabalpur, Patna, Bangalore and Jaipur, have used the provisions of the RTI rules framed by their respective High Courts to deny information to the applicant, is only incidental to the complaints and **not** the core issue agitated before the Commission.

The core concern to which your attention is sought to be drawn is that the rules framed by the High Courts mentioned above violate the general principle that all the rules framed for regulating access to information under the RTI Act have to be citizen-friendly. The public authorities cannot prescribe rules and regulations, which violate the very spirit of the RTI Act and effectively bar access to information held by them by stipulating unreasonable conditions. **All rules made under the RTI Act**

must subserve 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.

Therefore in summation, I would once again request the Hon'ble Commission to examine the rules prescribed by the various High Courts of the country and pass appropriate directions to bring them in conformity with the spirit of the RTI Act and facilitate the exercise by the common man of the right to information granted by the Act.

Yours faithfully,

(Sarvesh Sharma)

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