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FIRST APPEAL UNDER THE RIGHT TO INFORMATION ACT, 2005

From

C. MOHANAN
A/4, Le-Mansion Apartments
Chirakkal (PO)
Kannur-670011

Appeal No. 2
2017-18



To

DR. P. CHOWDAPPA
DIRECTOR, CPCRI & 1ST APPELLATE AUTHORITY

- 1 Full name of the Appellant : C. MOHANAN
- 2 Address : A/4, Le-Mansion Apartments
Chirakkal (PO), Kannur-67011
- 3 Particulars of CPIO : Shri. SURESH KUMAR
CPIO & CAO,
CPCRI, KASARAGOD
- 4 Date of issue of RTI Application by the Appellant : Application date: 24.07.2017
- 5 Date of Receipt of the Order appealed (If order passed by the CPIO) : Order No.17(1)RIB(2)/2006-Estt.(Vol.VII)
) dated 11.08.2017 (received on
16.08.2017)
- 6 Last date for filing Appeal : 16.09.2017
- 7 The grounds for Appeal:

The information sought for vide my application dated 24.07.2017 is denied under Section 8(1) (h) of RTI Act 2005 in a highly casual manner. No reasons assigned while denying the information about the applicability of the said Section of the RTI Act in my application under reference. The said decision which is not in consonance with procedure laid down by the Hon'ble High Court of Delhi/Central Information Commissioner (CIC) with regard to the application of Section 8(1)(h) of the RTI Act, is not acceptable. In its judgement in W.P.(C) 295 and 608/2011, the Hon'ble High Court of Delhi had observed as follows:

A public authority which seeks to withhold information available with it has to show that the information is of the nature specified in Section 8 RTI Act. As regards Section 8(1)h RTI Act,

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which is the only provision invoked by the Respondent to deny the Petitioner the information sought by him, it will have to be shown by the Public Authority that the information sought "would impede the process of investigation". The mere reproducing of the wording of the statute would not be sufficient when recourse is had to Section 8(1)(h) RTI Act. The burden is on the public authority to show in what manner the disclosure of such information would 'impede' the investigation.

The CIC in its decision No.CIC/LS/A/2013/001231/SH dated 22.01.2014 (C. Mohanan V/s CPIO(Vig.), ICAR, New Delhi) while duly giving stress to the above court decision, had further observed as follows:

Even if one went by the interpretation placed by this Court in W.P.(C) No.7930 of 2009 (Additional Commissioner(Crime) V/s CIC decision dated 30.11.2009) that the word "impede" would "mean any thing which would hamper and interfere with the procedure followed in the investigation and have the effect to hold back the progress of investigation", it has still to be demonstrated by the public authority that the information if disclosed would indeed "hamper" or "interfere" with the investigation

From the foregoing paras, it can well be concluded by the First Appellate Authority that, the CPIO had taken the decision to deny the information sought by the Appellant, without proper application of mind. Also, it should not be lost sight of the fact that, the CPIO (Shri. Suresh Kumar, CAO) who is one amongst the 09 officials charge sheeted under Rule 14 by the ICAR on charges of "erroneous appointment of 07 LDCs under CPCRI, Kasaragod" may try his level best to curb flow of information relevant to this episode and thus his vested mindset has prevailed upon his decision under challenge.

8 Particulars of information:

- | | |
|--------------------------------------------------------------------|--------------------------------------------------------------|
| (i) Nature and subject matter of the information required | : Items (1) to (6) as in my RTI Application dated 24.07.2017 |
| (ii) Name of office or Department to which the information relates | : Office of the Director, CPCRI, Kasaragod |

The First Appellate Authority may consider the appeal on its totality and pass a reasoned order which may possibly correct the error committed by the CPIO, CPCRI, Kasaragod.



**(C. Mohanan)
Appellant**

Place: Chirakkal
Date: 22.08.2017