

**Before the State Information Commission, Maharashtra-Complaint under
Section 18 of RTI Act, 2005.**

Complaint No.2008/ 620/ 02

**Shri.S.K.Nangia
704, Golden Chariot Co-op., Housing Society,
133 / Sector 6, Charkop, Kandivali (W),
Mumbai – 400 067.**

.....Complainant

V/s

**First Appellate Authority &
The Registrar,
Mumbai University
Fort, Mumbai – 400 032.**

**Public Information Officer cum The controller of Examinations,
Thesis Section,
M.J.Phule Bhavan (Examination House),
Vidyanagri, Mumbai – 400 098.**

..... Respondent

GROUNDS

Shri. S.K.Nangia filed an application dated 20-05-2008 (under RTI) with University of Mumbai, requisitioning information regarding a Pharmacy College which had started offering a Masters Course without having the requisite infrastructure of Labs & Tutorial Rooms and without fulfilling the norms prescribed by All India Council for Technical Education. He had asked for this information following reports appearing in media about students of the said College protesting against non-availability / non existence of adequate labs & tutorials rooms, and a Committee appointed by the University suppressing the factual position & mis-reporting the actual ground reality position. PIO had not responded to his application within the period specified under of the Act. He had, therefore, filed an Appeal on 14-07-2008 which was heard by The Registrar of the University as Appellate Authority (AA) on 12-08-2008. It was only after AA passing an Order that PIO had finally responded to his application vide his letter 16-8-2008.

Even while PIO (Controller of Examinations at the University) had responded to his application after filing of Appeal / order by AA, the information provided was still incomplete & incorrect. He provided information in respect of only 4 items listed in his

application and for remaining 4 items (i) to (iv), he referred the matter to another department within the University (Affiliation Section) for providing the information, which should actually have been done in the first place itself immediately after the receipt of his application. While PIO of Affiliation Section provided part-information vide his letter 29-08-2008, he in turns has again tossed the matter to another department (which he has not named & indicated) for providing information in respect of item (iv) of his application. Even after having waited for further 20 days, he has yet to receive from the University the remaining part of information. Thus, information provided remains incomplete even after nearly 4 months of filing the application on 20-5-2008.

Prior to filing of the aforesaid application. He had earlier filed an application on 24-3-2008 on the same subject matter. That was immediately after the media reports in this regard as described above had appeared in the press. The news item carried had also reported that 3 other colleges, including an Engineering College and a polytechnic were also operating from the 3 – storeyed building housing the Pharmacy College. PIO had responded to that application vide his letter of 26-05-2008, 52 days after the filing of application involving a delay of 22 days beyond the period prescribed in the Act. Besides the delay involved, information provided was incomplete & evasive in substance. Various infirmities thrown up by his response under RTI were, (a) he had avoided providing meaningful information in respect of 2 items (b) even while he had responded to applicant's application with delay with ramification of information being provided free of charge as per Sec 7(6) of the Act, he had demanded payment of Rs.50.00 for providing a copy of the Report of Committee that had visited the college and (c) for information in respect of one item list in the application, he had asked him to approach another department of the University, which approach was contrary to the provisions of Sec 6 (3) of RTI Act.

In his appeal of 20-05-2008 as also in the subsequent appeal of 14-07-2008, he had mentioned about these items of information which PIO had avoided to provide, and stated this expressly during the course of hearing also. Vide his Order of 13.08.2008 in respect of his appeal dated 14-07-2008 AA had directed PIO to provide to applicant the information (s) requisitioned vide his applications of 24-03-2008 and 20-05-2008. Despite this, PIO has again avoided to provide these specific information(s). Instances of information denied / evasive responses provided by PIO are as under:

- a) In terms of 3 (c) (iii) (b) of his application of 24-03-2008, he had asked for a copy of Report submitted by the Committee that had re-visited the College after the discrepant position of reporting by LIC had come to be revealed. PIO had avoided providing this information PIO's response to this was "Question does not arise to re-visit the college". However, when he asked for this again vide item 3 (c) (vi) of application dated 20-05-2008 with a specific poser "Specific response / information whether or not LIC re-visited the College in March'08", PIO advised that Committee had revisited the College on 13th March'08. Relating the 2 responses on the same subject matter, it clearly emerges that information provided by PIO in the first instance vide his letter of 16-05-2008 was absolutely incorrect and misleading. He has till date not been provided copy of the Committee's Report that had visited the College in March'08 and the information thus requisitioned remains denied to me.
- b) In terms of item 3 (c) (iv) of my application of 24-03-2008, he had desired to know "Whether University's Statute permits multiple professional colleges to be opened in a small cramped premises like it is reported to have happened in the case of afore named college". PIO has persistently avoided to provide this information.
- c) In terms of item 3 (c) (iv) of applicant's application of 24-03-2008, he had desired to know "Details of cases where applications received for affiliations are still pending with the University / benchmark time frame for disposal of applications seeking affiliation after these are received by the University. This information remains denied to him till date.
- d) Information requisitioned vide item 3 (c) (iv) of applicant's application of 20-05-2008 has not yet been provided to him. In terms of this, he had desired to know "Provisions of Rules / University Statue for action in cases where colleges start admitting students / offering courses without appropriate approval(s)."
- e) The department, to which PIO of Affiliate Section has in turn made a reference as stated in his letter of 29-08-2008, has not yet provided information relating to post graduation course.

Mr.S.K.Nangia has given complaint application on 18-9-2008 to this commission which was heard on 16-10-2008 when the appellant and PIO was present. The complaint of the applicant describes in details the efforts made by him to get the information and though he got the information on items he had still did not get the information about item no.4 of his application. The item no.4 is as follows:

(iv) Provision of Rules / University Statute for action in cases where Colleges start admitting students offering courses without prior appropriate approval (s) like in the instant case matter, and whether the requisite necessary action initiated against the College(s) found violating Rules / Specifications.

University PIO has not much of explanation for the delay except the routine explanation being busy in other matters etc. Further hearing the complaint and the respondent PIO, it transpired that in respect of applicant's first application there is delay of 22 days and in respect of second application on the same subject there is delay of 70 days. The complaint has correctly pointed out that if any item pertains to another PIO, It is responsibility of the original PIO to send the application specifying the item to the concerned PIO and not ask the complainant to approach to other PIO. PIO therefore has failed in his responsibility. Commission therefore directs that the fine @ Rs.250/- for the delay of 70 days i.e. 17,500/- in respect of application dated 20-5-2008 is imposed and order that it should be recovered in 3 installments from his salary. The only consideration in respect of fine is that since the matter in both the application is same delay which is smaller in the period in respect of first application is leniently viewed and no fine imposed. It is further ordered that remaining information be given to the applicant within seven days time of receipt of the order by the concerned PIO.

This be ensuredly the Registrar of the University. Therefore I pass the following order.

Order

The complaint is upheld. Fine of Rs.17,500/- is imposed on the public information officer which should be recovered in 3 installments to be deducted from the salary of the concerned PIO and deposited as per the procedure of the govt. The challans of depositing the fine be sent to commission for record by the University Authorities.

Remaining information be given within seven days.

(Dr.S.V.Joshi)

Chief Information Commissioner, Maharashtra.

Place: Mumbai
Date: 07.11.2008

Before the State Information Commission, Maharashtra-Complaint under Section 18 of RTI Act, 2005.

Complaint No.2008/ 621/ 02

**Shri.S.K.Nangia
704, Golden Chariot Co-op., Housing Society,
133 / Sector 6, Charkop, Kandivali (W),
Mumbai – 400 067.**

.....Complainant

V/s

**First Appellate Authority cum Joint Registrar
Co-operative Societies,
Directorate of Industries,
New Administrative Building,
Opp.Mantralaya,
Mumbai – 400 032.**

..... Respondent

**The PIO & Joint Chief Registrar (CIE)
Directorate of Industries,
3rd Floor, New Administrative Bldg.,
Opposite Mantralaya, Mumbai – 400 032.**

GROUNDS

Applicant Shri. S.K.Nangia has filed an application under section 6 of RTI act 2005 with PIO, Directorate of Industries on 21-3-2008 regarding appointment of PIO by Co-operative Industrial Estates and assistance being made available to them by the Govt. and other related information. This was replied to on 2nd April, 2008.

In respect of point (a) and (b) and (d) in the RTI application whereby applicant wanted copy of notification / order issued by govt. designating Co-operative Industrial Estates in Mumbai / Maharashtra as PA for purpose of Compliance with RTI Act and whether other Co-operative Industrial bodies in general other than Co-op Industrial Estate are also covered by the notification / order by the Govt., Reply said this information be obtained from the Govt.

Citing the provisions of 6(3) of the Act, Shri Nangia had taken strong exception in his letter dated 22-8-2008 and insisted that his application should be sent by the PIO himself to the Govt. Having not received any reply to his letter, Shri.Nangia has filed another RTI application dated 30-5-2008 with same PIO seeking states of response to his

application dated 22-4-2008 and Role of Joint Registrar in responding to an application under RTI addressed to the Director of Industries.

This application and subsequent appeal under sec 19 (1) of the Act remain unattended to. Therefore Shri. Nangia had filed complaint application with the Commission on 22nd August 2008. This complaint was inquired into on 16-10-2008 when complaint and PIO and appellate officer were present.

In his submission before the Commission PIO admitted that as per his knowledge there is no system of publishing the names of the Institution to whom RTI Act is applicable in the Gazette. In fact this fact ought to have been made clear by the PIO to the applicant instead of asking applicant to go to govt. Such decisions are taken by the Head of the Dept. like Commissioner of Industries.

PIO has however given instance of his commitment to RTI. According to him, taking advantage of difference of opinion about applicability of RTI to Co-operative Institutions, when Kandivali Co-operative Industrial Estate was avoiding appointment of PIO he doggedly perused that the matter and saw to it that they appoint PIO.

His lapses were basically because of lack of knowledge.

This Commission feels that all the replies to the application should have been given by the PIO without him making reference to the Govt. or asking applicant to go the Govt. which he should do within 5 days of receipt of this order. Taking into consideration the fact that he has tried to reply within time limit and also his commitment to RTI, Commission decides to give him chance to work better and discharge his responsibility under RTI properly by merely reprimanding and not by imposing any fine.

Appellate officer had taken the plea that this appeal has never reached him.

Commissioner of Industries is directed to inquire into this matter and take action against those who are found guilty of not submitting this appeal before him. Appellate officer is warned to be very vigilant about receipt and its prompt disposal.

Order

The complaint is thus disposed off. Copy of this order be sent to Commissioner of Industries and she is directed to inquire into non submission or appeal to appellate officer and inform the action taken against those who have derelicted duty. PIO to give studied information to the applicant within seven days.

(Dr.S.V.Joshi)
Chief Information Commissioner, Maharashtra.

Place: Mumbai
Date: 10.11.2008.

Before the State Information Commission, Maharashtra-Complaint under Section 18 of RTI Act, 2005.

Complaint No.2008/ 622/ 02

**Shri.S.K.Nangia
704, Golden Chariot Co-op., Housing Society,
133 / Sector 6, Charkop, Kandivali (W),
Mumbai – 400 067.**

.....Complainant

V/s

**First Appellate Authority cum Chief Engineer
(Engineering Division)
MMRDA, C 14/15 B. K. Kurla Complex,
Bandra East,
Mumbai – 400 051.**

**Public Information Officer Executive Engineer
MMRDA, C 14/15 B. K. Kurla Complex,
Bandra East,
Mumbai – 400 051.**

..... Respondent

GROUNDS

Shri. S.K.Nangia has given complaint application under section 18 of RTI Act on 9th September, 2008. The matter of his original application dated 12-5-2008 under section 6 was about the details of civil work relating to open pit in Mulund (W) which caused an accident of a car falling in the pit on account of pit being left open and unfenced. In response PIO by his letter dated 2-6-2008 advised the applicant to seek this information from police station, Mulund (W). On appealing against this order, Appellate Authority by his order dated 20-6-2008 directed PIO to provide the information which was done on the same day but according to the complainant there has been no information pertaining to the names of official who role function and role responsibility it was to oversee and supervise the construction work. This was brought to the notice of AA but to no avail. Therefore applicant filed complaint with the Commission on 9th September, 2008, which was enquired into on 16th October, 2008. Complainant and PIO were present.

Firstly, it was totally wrong on the part of PIO to direct applicant to seek information from the concerned police station. In this case information was really with MMRDA but even if it was with police station, It was responsibility of PIO to send that

application to the police station asking them to provide information directly to the applicant. This is considered to be serious lapse on the part of PIO.

Application was dated 12-5-2008. Information ought to have been provided by 11-6-2008. Actually it was provided on 20-6-2008 and that too as per the direction of Appellate Officer and not as per PIO's own volition. There is thus the delay of 8 days in providing information. Moreover information about one item's information as to whose responsibility it was to supervise this work has still not been given.

Preamble of RTI Act sets out the objective of Act and one of the objectives is to promote transparency and accountability in the working of every authority.

The applicant's application is to get information about who were in charge of work. Police has already registered the offence and judicial verdict will come in due course. It is pertinent to note that applicant is not asking who is responsible for this mishap. He is merely asking names of officer who were entrusted with overseeing and supervision. For this lapse another penalty equivalent to delay of 30 days is imposed on the PIO. This information if already not given to the applicant be given in 5 days time of the receipt of this order.

Lastly, applicant has stated that he has spent time, effort and money for filing an appeal with AA, filing of fresh application with police and making payment of charges to police department for information which all could have been avoided had PIO provided correct and complete information and demanded a token compensation of Rs. 100/-. The Commission appreciates the concern of the applicant that he wants to stress the point of accountability and really not interested in financial reimbursement and order that this amount should be given to the applicant by MMRDA by recovering it from the PIO.

In nutshell, PIO has to pay penalty for the delay of 38 days i.e Rs.250 X 38 of Rs. 9500/-. This be recovered from his salary in two installments and deposited as per the Govt.'s procedure. The copy of challans having paid this amount be sent to Commission for record.

Order

The complaint is upheld. Penalty of Rs.9500/- be recovered from the PIO and Rs.9500/- paid to Govt. Exchequer as per the procedure. The token compensation of Rs.100/- also be recovered from the salary of PIO and paid to the applicant Shri. Nangia by MMRDA. Metropolitan Commissioner should ensure these actions.

(Dr.S.V.Joshi)

Chief Information Commissioner, Maharashtra.

Place: Mumbai

Date:10.11.2008

Before the Chief Information Commissioner, Maharashtra-Appeal under Section 19(3) of RTI Act, 2005.

Appeal No.2008/3147/02

**Shri.S.S.Dev
Surdashan Engineering Company,
60/6, Swami Samarth Apartment, Tarun Bharat,
Complex Sahar Road, Andheri (East),
Mumbai – 400 099.**

...Appellant

V/s

**First Appellate Officer cum
Office of the Lok Ayukta,
New Administrative Bldg.,
1st Flr, Madam Cama Road,
Manatralaya, Mumbai – 400 032.**

.... Respondent

**Public Information Officer cum
Office of the Lok Ayukta,
New Administrative Bldg.,
1st Flr, Madam Cama Road,
Manatralaya, Mumbai – 400 032.**

GROUNDS

The appellant has made appeal on 13-12-2005 under section 19 (3) of the Right to Information Act, 2005 on the following grounds:-

- I. Misuse of the Maharashtra Lok-Ayukta and Upa-Lok Ayukta's rejection of information against investigation under RTI Act 2005 as per section 8.1(J), 8(2) and 22 being third party as per section 11 having existing discretionary powers for disclosure being Public Authority under section 4 – conflict between RTI Act, 2005 and the Maharashtra Lok-Ayukta & Upa-Lok-Ayukta Act 1971 – contempt of RTI Act provisions.
- II. The Public Information Officer of Lok-Ayukta Office has not given information sought under section 18 (c). Further it is stated that Relevance of Official Secret Act now limited, RTI Act will prevail if there is a direct conflict.
- III. Relevance of Lok-Ayukta Act, 1971 now limited in line with Official Secret Act and filed a complaint to Lok-Ayukta – Public Authority for contempt of RTI provisions against existing discretionary powers for disclosure of information of Public Documents in Public interest.

- IV. The Lok-Ayukta – Public Authority is also having power to investigate under their own Act Section 7(1) and 8(6) against Public Servant including Ministers but subject to “Ifs & Buts”, they are committed to protect Governments (MIDC) from mal-administration from common public in spite of knowing well that in a democracy, the public is Govt. They have taken defense under section 8(3) showing MIDC is not under the jurisdiction of Lok-Ayukta which is nothing but escapism.
- V. The Lok-Ayukta Act, 1971 can not use in a manner in which it is inconsistent with the provision of the RTI Act, 2005. Lok-Ayukta is further empowered more strongly with mandatory discretionary powers under RTI for disclosure of Public documents in larger public interest in investigation of mal administration against various Govt. Departments.
- VI. This is policy matter of the State and Central to decide the working of Lok-Ayukta in every State to be continued / discontinued when RTI came into force all over India which has reached upto rural area Act is not at all satisfactory. The necessity of Lok-Ayukta’s Office is required to be decided by the entire bench of SIC, Maharashtra in the public interest.
- VII. Copies of 1st appeal no.20/2007 and 21/2007, dated 3-10-2007 for orders issued by Registrar and the First Appellate Authority of office of the Lok-Ayukta (2 orders) with first appeal for perusal and action, letter no. 6508, dated 27-8-2007 at time of hearing on 28-8-2007 and letter dated 21-8-2007 for demand of “Information Audit” under section 4 submitted to the Registrar & First Appellate Authority of Lok-Ayukta’s Office and their letter no.5124, dated 5-12-2007 and their letter No. 6516, dated 1-11-2007.
- VIII. Prayer : - Since Lok-Ayukta’s Office is a statutory body for Govt. of Maharashtra and being Public Authority under RTI and genuine third party on behalf of Govt. the SCI, Maharashtra is requested to order for reopening of investigation for disclosing referred Supreme Court judgment in plaint on which appellant relied on and missing documents such as “the then SE, MIDC is an Arbitrator as per terms of the contract and the SE, MIDC’s Rejection Report against Appellant’s “Compensation Claims”. Appellant demand is that in case of missing, he should be

held responsible for producing the document due to his mal-functioning in public interest.

The hearing of the appeal was held on 17-10-2007 in the office of the Commission. The appellant, First Appellate Authority and the Public Information Officer were present at the time of hearing.

The information sought by the Appellant under their letter dated 21-6-2007 from the Public Information Officer, office of the Lok-Ayukta is as under.

- 1) Appellant complaint with Affidavit dated 10-01-2007 and 24-01-2007 closed by Lok-Ayukta Office on 05-04-2007 [Ref. LA/COM/308/2007 (T.3)] and time consumed 84 days and 166 days respectively for easy closing without exercise.
- 2) Whether the GAD's circular dated 11-7-2006 for "Prevention of delay in discharge of official duty" is applicable to the staff or office of Lok-Ayukta ? What are the norms specified in circular, if any?
- 3) If yes or otherwise, provide information about file notings on above two complaints of concern officers including the then Lok-Ayukta and inform the number of days the files was resting on each table with reasons for delay provide the accountability for time consumed in respect of above two complaints.
- 4) When MIDC is not under the jurisdiction of Lok-Ayukta Act, 1971, in case of grievances against mal-administration in MIDC, what common public to do in lodging their such complaints?
- 5) To inform difference between "Complaint with Affidavit" and "Simple letter Complaint". Appellant have been advised to lodge complaint with affidavit all the time why?
- 6) Is office of the Lok-Ayukta considers a complaint of a Sr.Citizen for a speedy disposal as a special case? Above closing of two complaints is really a speedy disposal? It is to be informed.

The Public Information Officer of the Lok-Ayukta office has given reply to the appellant under letter dated 26-07-2007. Besides another application 25-6-2005 was

also replied. Public Information Officer under his No.RTI A/Apl. – 106/ 2007 (P) dated 26-07-2007.

The appellant has made first appeal on 16-08-2007 on the grounds that misuse of Lok-Ayukta Act, 1971 by the Public Information Officer for rejection as per file notings under RTI Act, 2005 as per section 22 with section 4 (1) (b) (2) and (3) and section 11.

The First Appellate Officer has fixed the appeal for hearing on 28-08-2007. The appellant has not appeared. However, the Public Information Officer was present and he has submitted his arguments orally as well as in writing. The First Appellate Authority is satisfied with the information furnished by the Public Information Officer as it is found to be correct, complete and is not misleading as stated in the order. Besides it is mentioned in order that furnished to the appellant by the Public Information Officer was within the stipulated time. As such the appeal of the appellant was dismissed by order first appeal no. 20/2007 (Regr.) dated 3-10-2007.

Besides there was another first appeal dated 16-08-2007 only. The same was fixed for hearing on 28-08-2007 by the First Appellate Authority. The appellant was not present for hearing. The Public Information Officer was present and he has submitted his written argument cum submission to the First Appellate Authority. The First Appellate Authority has come to the conclusion that he has no any hesitation in holding that the Public Information Officer has furnished the correct and complete information to the appellant within stipulated time and hence the first appeal was devoid of merits. In the result has dismissed the first appeal under his order first appeal No.21 / 2007 (Regr.) dated 3-10-2007.

The appellant has made second appeal on 13-12-2007 against two order i.e. first appeal no.20-2007 (Regr.) dated 3-10-2007 and first appeal no. 21/2007 (Regr.) dated 3-10-2007 only.

The hearing of the second appeal dated 13-12-2007 was fixed for hearing on 17-10-2008 in the office of the Commission. The appellant, Public Information Officer and First Appellate Officer were present.

I have gone through the papers available in this office in the matter and heard both the parties. I observed that main contend of the applicant is against the stand taken by the Public Information Officer and the First Appellate Authority that

Lok-Ayukta's office has no jurisdiction to inquire into complaints involving grievance against MIDC. Besides other point raised in the second appeals are seems to be beyond the information sought under the applications dated 21-6-2007 and 25-6-2007.

On going through the papers available in the matter and on hearing both the parties I came to the conclusion that the stand taken by the Public Information Officer and the First Appellate Authority in the case of MIDC is seems to be corrector as stated by them. Besides other points raised in the second appeal are beyond the information sought under application dated 21-6-2007 and 25-06-2007 and hence following order are passed.

Order

The second appeal is dismissed.

(Dr.Suresh Joshi)
Chief Information Commissioner, Maharashtra.

Place: Mumbai
Date: 11.11.2008.

**Before the State Chief Information Commissioner, Maharashtra-Appeal
under Section 19(3) of the RTI Act, 2005.**

Appeal No.2008/3163/02

**Shri.Munaf Barmare
301, Rom-Lui Apartment,
Pitambar Lane,
Mahim, Mumbai – 400 0016.**

.....Appellant

V/s

**First Appellate Officer cum Dy. Commissioner,
(G.A.D.) M.C.G.M.,
Municipal Head Office, 6th Floor,
Mahapalika Marg,
Mumbai – 400 001.**

.... Respondent

**Public Information Officer cum Law Officer
Legal Department,
M.C.G.M., Annex Bldg.,
Mahapalika Marg, Mumbai – 400 001.**

GROUNDS

The appellant has made second appeal on 6-12-2007 to the Commission on grounds that several complaint matter and grievances are not resolved yet.

The hearing on second appeal was fixed on 20-10-2008 in the office of the Commission. At the time of hearing the appellant and the Public Information Officer were present.

The appellant has made application on 16-8-2007 to the P.I.O. asking information on 35 queries in connection with 5 complaint letter dated 15-4-98, 13-10-2005, 18-10-2005, 17-7-2006, 23-11-2005 and copies of witness evidence dated 23-9-1998.

The P.I.O. under his Letter No.LP / 1300, dated 12-9-2007 has given reply explaining the letters to whom addressed and the nature of subject mentioned the letters. The P.I.O. has replied one by one all the 35 queries in detail.

The appellant has made first appeal on 14-9-2007 on the ground that the P.I.O. has not given information as demanded but malafidely denying information and knowingly giving incorrect & misleading and incomplete information.

The First Appellate Officer has conducted hearing of the first appeal on 6-10-2007 when the appellant and P.I.O. were present. The First Appellate Authority after hearing the appellant and the P.I.O. and after perusing all the papers and files, has come to the decision that the P.I.O. has furnished the information which was on record and which was available with the P.I.O. and hence the First Appellate Officer has dismissed and disposed off the first appeal.

The Commission has arranged the second appeal for hearing on 20-10-2008. The Commission has heard both the parties and gone through all the papers available in the office of the Commission and the letter given by the appellant at the time of hearing. On hearing both the parties and on perusal of the papers, the Commission has come to the conclusion that the order dated 9-10-2007 passed by the First Appellate Officer in dismissing and disposing off the first appeal is correct and hence the following order are passed.

Order

The appeal is dismissed.

(Dr. Suresh V. Joshi)
Chief Information Commissioner, Maharashtra.

Place: Mumbai
Date: 29.11.2008.

Before the State Chief Information Commissioner, Maharashtra-Appeal under Section 19(3) of the RTI Act, 2005.

Appeal No.2008/3225/02

**Shri.Moin Akhter Qureshi
Baitul Akhter Bldg.,
First Floor, Room No.18 /19,
Above Delhi Darbar Hotel,
Patthe Bapurao Marg,
Mumbai – 400 004.**

...Appellant

V/s

**First Appellate Officer cum Asst.Municipal Commissioner
Office of the “D” Ward, M.C.G.M.
Nana Chowk, Mumbai – 400 007.**

.... Respondent

**Public Information Officer cum Asst. Engineer,
(Building & Factories)
Office of the “D” Ward, M.C.G.M.
Nana Chowk, Mumbai – 400 007.**

GROUNDS

The appellant has made second appeal to the Commission on 6-12-2007 on the ground that the Public Information Officer has given false reply and further order dated 30-8-2007 which was given by the First Appellate Authority to give reply and document within seven days is not followed by the P.I.O., therefore penalty be imposed on P.I.O.

The hearing of the second appeal was fixed on 22-10-2008 in the office of the Commission. At the time of hearing the Appellant, the P.I.O. and the First Appellate Officer were present.

The appellant has asked for the details information on 14 points regarding notices issued to 15 illegal construction in Baitul Akhtar Building, Mumbai – 400 004 under his letter dated 11-6-2007. The nature of information asked for is like action taken after issuing notice with number of notice, whether illegal construction have demolished, if yes or no, why, whether the party has himself removed illegal construction, whether court injunction has brought, what steps have been taken to vacate court injunction, no. of notices pending to prosecute in the Hon. Metropolitan Court, action deem fit for lowering of plinth level, action deem fit for removed of brick partition wall, notice pending for demolition, why action has not been taken on the lowering of plinth level of

Yadgar Punjab Hotel and Delhi Darbar Hotel and illegal window of Yadgar Punjab Hotel, copy of fresh notices, if issued in above complaints, copies of correspondence done with various departments such as Legal department, Police department, Municipal commissioner, Addl. Municipal commissioner (City), Chief Officer (Enquiries) V.O.S.D., D.M.C. zone – 1, A.M.C. “D” or any other department and documents and reply submitted as proof after notice were served on occupier or illegal constructor etc.

The P.I.O. under his letter No. ACD/9325/B, dated 6-7-2007 has informed to the appellant that particular of information required by appellant does not contain any details about any notices and hence no information can be furnished to the appellant.

Being aggrieved by the letter of the P.I.O. the appellant has made first appeal on 23-7-2007 to the First Appellate Officer requesting to him to imposed penalty according to the R.T.I. Act, 2005. The First Appellate Officer has arranged hearing on 23-8-2007. The appellant and the P.I.O. were present for hearing. As the First Appellate Officer was not satisfied with the reply given by the P.I.O., he has passed the order on 30-8-2007 to provide proper information as requested by the appellant within seven days and thus first appeal is disposed off.

The appellant has made second appeal on 6-12-2007 to the Commission as the P.I.O. has not given reply and document to the appellant as per the order passed by the First Appellate Officer. The appellant has also requested to impose penalty on the P.I.O.

At the time of hearing of the second appeal on 22-10-2008, the Commission has heard both parties and gone through the documents available in the office of the Commission. It is also brought to the notice of the Commission that the appellant has made complaint letter on 1-1-2008 to the various officers / department on the same subject which is replied under letter dated 28-1-2008.

On going through the papers available in the office of the Commission and on hearing of both the parties, it is observed that the P.I.O. has not given required information to the appellant even after order of the First Appellate Officer which is negligence on the part of the P.I.O. The P.I.O. should henceforth obey the order of the First Appellate Officer under the R.T.I. Act, 2005.

If appellant is still not satisfied with the information given by letter dated 28-1-2008 the P.I.O. should give inspection of the concerned files to the appellant and give him copies of the documents required by him within a period of one month from the

receipt of this if the applicant has not taken inspection 15 days before. The applicant should note also that he is entitled to get the information as per the definition of information in the Act. The following order is passed in the matter.

Order

The appeal is disposed off.

(Dr. Suresh V. Joshi)
Chief Information Commissioner, Maharashtra.

Place: Mumbai
Date: 07.01.2009.