

OFFICE OF THE FIRST APPELLATE AUTHORITY
(Appointed under the Right to Information Act, 2005)
The Institute of Company Secretaries of India ICSI
House, C-36, Sector-62, Institutional Area,
Noida - 201 309 (U.P.)

Appeal No. 286/2023

IN THE MATTER OF:

Atul Bhargava
House No. 410, Sector 14
Vasundhara, Ghaziabad
Uttar Pradesh- 201012

Appellant

Vs.

Central Public Information Officer (EXAM)
The Institute of Company Secretaries of India
C-37, Sector 62, NOIDA- 201309

Respondent

Date of Order: 14 June, 2023

ORDER

This order is being issued beyond the stipulated time frame of 30 days as hearing was held as per the first convenience of the Appellant and thereafter both the parties were given adequate time to make written submission.

The facts of the case are:

- (a) The Appellant has filed first Appeal- No. ICSOI/A/E/23/00286 on 29.04.2023 under Section 19(1) of the Right to Information Act, 2005 in connection with Response Ref. No. RTI 2005/5510(23) dated 12.04.2023 against the Central Public Information Officer (CPIO) (hereinafter referred to as Respondent) of the Institute of Company Secretaries of India.
- (b) The Appellant vide his application dated 18.03.2023 has requested to provide following information/documents with respect to complaint No. DC/908/2022
1. Names, designation, and contact details (emails and mobile nos.) of the officials handling his complaint or officials who were supposed to act on complaint.
 2. (a) In case no action is taken on complaint please provide Names, designation, and contact details (emails and mobile nos.) of the officials who were supposed to act on complaint and who have not done so.

(b) What action has been taken against the above officers for not doing their work and for causing harassment to him? If action has not been taken against the above officers, then by when would the action be taken?
- (c) By when would the action be taken on his complaint now?

3. Daily progress made on his complaint so far i.e., when did the complaint reach which officer and what did he/ she do during that period (provide a copy of the file noting by the officers also).
 4. Please provide a copy of the action taken report on complaint by the concerned authority.
 5. Please provide a copy of the status report or any other report of complaint.
 6. Please provide a copy of the investigation report or feedback obtained on complaint.
 7. Please provide a copy of the note sheet indicating notings by the various officers and any decision of the authorities on the investigation report or feedback obtained on his complaint.
 8. Copy of letter, directions, and/ or instructions issued to the concerned authority/ sub-ordinate office as a follow-up action based on the investigation report or feedback obtained on his complaint.
 9. Please provide a copy of the file noting/ note sheets indicating notings by the various officers and any decision of the authorities on his complaint.
 10. Prescribed timeline to complete the process of complaint redressal by ICSI.
 11. Target timeline for completing the process of redressal of his complaint by ICSI.
 12. Copy of rules/ laws or the Citizen charter or any other document stipulating the time frame in the number of days by which such a complaint should have been dealt with and resolved by your public authority i.e., ICSI.
 13. If no time limits have been prescribed for the redressal of complaints, which is the rule/ law that allows an open/ unlimited timeline, without any maximum time limit, for the redressal of such complaints.
- (c) The Appellant has informed in the instant appeal that “Refused access to Information Requested”.

Against the above two submissions were made by the Respondent, one of them after the hearing.

Further two submissions more are on record by the Appellant, both of them after the hearing.

The hearing was held on 1st June 2023 as per the earliest availability of the Appellant.

(d) This Office has carefully considered the application, the response, the appeal and the records made available and finds that the matter can be decided based on the material available on record.

1. The submission of the Respondent is that the information of all official working in the Disciplinary Directorate is available on the website www.icsi.edu and giving contact details is exempted under 8(1)(g).
2. The Appellant has taken the plea under the case of R P Verma vs Central Public Information Officer, Ordnance Factory Board, Kolkata File no. CIC/OFBKO/A/2017/102772/SD, Dr Tariq Islam vs Aligarh Muslim University, Sujit Kumar Mazumder Advocate vs CBI Appeal No. CIC/SM/A/2011/000318/SG, Dharam Prakash Verma vs CPIO Ordnance Factory Board, Kolkata file No CIC/OFBKO/2017/188241/SD and Smt. Saraswati Devi vs Consumer Affairs, Food and Civil Appeal No. CIC/SG/A/2011/001400.

Further the Appellant has quoted CIC W.P.(C) No 3114/2117, Mr. CN Murthy vs the University of Delhi, Appeal No. CIC/SG/A/2010/000954 and Mr. S Kuppasamy vs Employees State Insurance, Appeal No. CIC/SG/A/2010/003376.

3. From the submissions made by the Respondent the following is noted:

i) The Appellant [Complainant] herein has filed a complaint of professional or other misconduct against CS Megha Chhabra (ACS-36106). Pursuant to the provisions of the Act read with the provisions of the Rules, the Director Discipline has taken cognizance of the said complaint filed by the Appellant, and an unique reference number (DC/908/2022) was allotted to the said complaint.

ii) Vide letter dated 28th July, 2022, CS Megha Chhabra was asked to submit the written statement to the Appellant's complaint. Since, the said letter dated 28th July, 2022, was returned back to the Disciplinary Directorate as undelivered, vide email 22nd August, 2022, CS Megha Chhabra was asked again to submit the written statement to the Appellant's complaint.

iii) CS Megha Chhabra vide email dated 13th September, 2022 had submitted her written statement dated 8th September, 2022. Vide email dated 15th September, 2022 the Appellant [Complainant] was provided with a copy of the said written statement of the Respondent to submit his rejoinder. Vide email dated 26th September, 2022 the Appellant has submitted his rejoinder dated 26th September, 2022 to the written statement of CS Megha Chhabra. Thereafter, the Director (Discipline) after examining the said complaint, written statement and the rejoinder has formed his prima facie opinion.

The submission of the Respondent that the above reflects the progress till date is taken on record.

4. Written submission of the Respondent

a) The Respondent has taken the plea under the case of Dr. Celsa Pintu

vs. Goa State Information Commissions and CIC Shankar Sharma vs Income Tax(Inv.)-II & CPIO Department of Income Tax to claim exemption.

- b) Further submission of Respondent is that The Company Secretaries Act, 1980 and the company secretaries (procedure of investigation of professional and other misconduct and conduct of cases) Rules, 2007 are already in public domain as the same are available on ICSI's website www.icsi.edu.
- c) Further, the case of Union of India Thr. Secretary vs Central Information Commission, Central Board of Secondary Education (CBSE) & anr. Vs. Aditya Bandhopadhyay and others [(2011) 8 SCC 497], ICAI vs. Shaunak H. Satya, (2011) 8 SCC 781, Rajni Maindiratta vs Directorate of Education (North West-B0 [W.P. © No. 7911/2015] , Shail Sahni vs Sanjeev Kumar [W.P.(C)845/2014] and RP Verma vs Ordnance Factory Board, Kolkata (Appeal no. CIC/OFBKO/A/2018/121509 +149210 +149207 +149203 + 129459) has been quoted to claim exemption under Clause 8(1).
- d) Further the submission of Respondent is that in the case of Dr. Tariq Islam vs Aligarh Muslim University as referred by the Appellant, the subject matter of said appeal is entirely different. Further the quoted case Sujit Kumar Mazumder vs CPIO, CBI referred by the Appellant is not applicable in the instant case as the same is out of context and is entirely different.

After considering all the above:

The submission of the Respondent is accepted against Query No 1 and 2(a) as per the various decisions submitted (referred above).

Query Number 2(b) and 2(c) does not fall under the provisions of RTI Act Clause 2(j).

For Query Number 3,4 and 5, the status as provided by Respondent is taken on record. In the hearing it was submitted by the Respondent that information is not maintained as per the Act and Rules. Information, if not maintained cannot be shared.

The submission of the Respondent on invoking clause 8(1)(h) on query number 6 is accepted as per the various decisions submitted.

The submission of the Respondent on query number 7,8,9 is accepted that no such information exists.

On query 10,11,12 the Respondent has stated during the hearing that no timelines are prescribed in the Company Secretary Act, 1980 and the Company Secretaries (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 which is available on the website www.icsi.edu.

The appeal is accordingly disposed of.

Sd/-

(Ankur Yadav)
First Appellate Authority

Copy to:

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2. Central Public Information Officer (EXAM)
The Institute of Company Secretaries of India
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3. Directorate of IT - For publishing on the website