

OFFICE OF THE FIRST APPELLATE AUTHORITY

(Appointed under Right to Information Act, 2005)

The Institute of Company Secretaries of India

ICSI House, C-36, Institutional Area, Sector-62

Noida – 201 309 (U.P.)

Appeal No. 39/2019

IN THE MATTER OF:

Avtaar Singh
A-219, Surya Nagar
Ghaziabad
Uttar Pradesh

Appellant

Vs.

Central Public Information Officer
The Institute of Company Secretaries of India
'ICSI House'
22, Institutional Area, Lodi road
New Delhi – 110 003

Respondent

Date of Order : 2nd January, 2020

ORDER

1. The Appellant has filed first appeal dated 13th November, 2019 under section 19(1) of the Right to Information Act, 2005 against response issued vide letter Ref. No. RTI 2005/2708(19) dated 22.10.2019 by the Central Public Information Officer (CPIO) (hereinafter referred to as Respondent) of the Institute of Company Secretaries of India.
2. The Appellant vide his application dated 23.10.2019 had requested for a copy of the complaint filed by Mr. Vijay Kumar Jhalani against Ms. Alka Kapoor (FCS-2950) in Case No. DC/347/2016.
3. The Respondent vide letter dated 22.10.2019 had informed the Appellant that he may inspect the case file under reference during 10 AM to 4 PM on any of the working days after giving a notice of 14 days in advance to Disciplinary Directorate of the ICSI.
4. The Appellant in the instant appeal has informed that "Response received but the same is not of the information / documents sought, and is therefore an irrelevant and unrelated response."
5. The Appellant and Respondent were called for a personal hearing on 12th December, 2019 to enable them to make their submissions.

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6. During the hearing, the Respondent submitted that the information is exempted under 8(1)(j) of the RTI Act. In his support, Supreme Court SLP (Civil) No. 27734 of 2012 (@CC 14781/2012) and CIC Order No. CIC/RCFDP/A/2018/134046 was quoted by the Respondent.
7. The Appellant, during the hearing, submitted that the oral submission made by the Respondent needs to be evaluated at his end in view of change in stand of the Respondent. The Appellant made a plea that copies of the judgement of Supreme Court and CIC should be provided to him and he should be provided another opportunity and time in view of the submission made by the Respondent.
8. This Office had issued an Order dated 13.12.2019 advising the Appellant and the Respondent to submit final submissions by 18.12.2019 and copies of the judgement of Supreme Court and CIC were provided to the Appellant.
9. The Respondent submitted against the Order dated 13.12.2019 that the request of the Applicant for providing certified copies of the records of the case cannot be allowed as the applicant is not a party to the case. Moreover, the information is exempted under 8(1)(j) of the RTI Act, 2005.
10. The Appellant has submitted against Order dated 13.12.2019 as under :

"It is to state that, in the last hearing, the Appellant has sought the written submission (reply to the Appeal) of the Respondent (CPIO-ICSI) since there was a complete change of stand by the Respondent contradictory to the initial reply of the Respondent as given against the RTI Application of the Appellant.

Even the same was also taken note of by the Learned Appellate Authority and the Learned Appellate Authority specifically directed the Respondent to submit the said written submission to the Learned Appellate Authority and the Learned Authority also stated that the said written submission will be forwarded by itself to the Appellant in order to enable the Appellant to counter reply to the same.

Therefore, the Learned Appellate Authority is humbly requested to kindly provide the written submission (reply to the Appeal) of the Respondent to the Appellant for proper adjudication of the matter. since the oral submission of the CPIO-ICSI, being completely contrary to its initial stand as taken in reply to the RTI Application, need to be examined and replied.

The Appellant humbly seeks a period of 5 days, from the date of receipt of written submission of the Respondent, in order to submit his written submission thereafter."

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11. The Respondent in the final submission dated 13.12.2019 informed that as per Section 8(1)(j) of the RTI Act :

"8.(1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,

(j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:

Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person. "

That in support of the above contention, the CPIO relies on the following judgments:

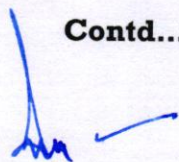
- (a) *Girish Ramchandra Deshpane Vs Cen. Information Commr. & Others SLP (Civil) No 27734 of 2012 wherein the Hon'ble Supreme Court of India has observed Disciplinary Orders and the documents in the course of the disciplinary proceedings are personal information within the meaning of Section 8(i)(j) of the RTI Act, 2005. (Copy attached).*
- (b) *N Sivashamugam Vs CPIO, REPCO Bank, Chennai (Second Appeal No. CIC/RCFDBIAI2018/134046 Date 13.09.2019) similar view was taken as in the above case by CIC while relying the above judgment of the Hon'ble Supreme Court of India. (Copy attached) "*

That it is further stated that the copy of the Order passed by the Board of Discipline in the case of which the information is being sought is already hosted on the Website of the Institute and no larger interest of the public would be justified in disclosing the said information i.e. copies of the documents / records relating to a disposed -off case. The Order passed by the Board of Discipline attached with the Appeal is self-explanatory, therefore, no comments, are being offered on the same.

In addition, it is stated that there is no provision under the Company Secretaries Act, 1980 and the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 for providing the certified copies even to the parties to the case."

12. As requested by the Appellant, a copy of the final submission was given to the Appellant vide Order dated 18.12.2019.
13. The Appellant was further requested to submit his final submissions by 30th December, 2019.

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14. The Appellant in his final submission has informed as under :

"That in support of the above contention, the Appellant relies on the following judgement-

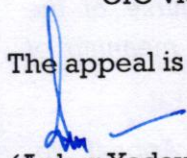
Union of India v. Anita Singh AIR 2014 wherein the Hon'be Supreme Court of India has observed that information as to date of birth and residential address of passport holder constitutes personal information within the meaning of section 8(1)(j) of the RTI Act, 2005.

Since the Appellant has not asked for such personal information as referred to in the above cited judgement, therefore, the Appellant states that, the Appellant has a right to seek the information / documents as sought in the RTI Applications under instant appeal."

15. 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.

16. This Office concurs with the submissions of the Respondent in view of the decision of CIC vide its Order No. CIC/RCFDBI/A12018/134046 dated 13.09.2019.

The appeal is accordingly dismissed.


(Ankur Yadav)

First Appellate Authority

Copy to :

1. Mr. Avtaar Singh
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Uttar Pradesh
2. Mr. Surya Narayan Mishra
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3. Directorate of IT For publishing on the website