
(2014) 02 DEL CK 0195
In the Delhi High Court
Case No : Writ Petition (C) 845 of 2014

Shail Sahni	Vs	APPELLANT
Sanjeev Kumar and Others		RESPONDENT

Date of Decision : 05-02-2014

Acts Referred:

Right to Information Act, 2005 — Section 19(6) 19(8) 2 2(f) 3

Citation : (2014) 02 DEL CK 0195

Hon'ble Judges : Manmohan, J

Bench : Single Bench

Advocate : Hashmat Nabi, Advocate for Respondent No. 2/UOI., for the Respondent

Final Decision : Dismissed

Judgement

Manmohan, J.—Present writ petition has been filed seeking expeditious disposal of petitioner's appeal under Right to Information Act, 2005 (for short "RTI Act") as well as a direction to respondents to pay amount of Rs. 3,01,000/- as compensation. Petitioner has also prayed for a direction to take disciplinary action against respondent No. 1. In support of the aforesaid prayers, the petitioner who appears in person only relies upon the time frame prescribed u/s 19(6) of the RTI Act, which reads as under:-

19. Appeal.-

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(6) An appeal under sub-section (1) or sub-section (2) shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.

2. The information sought by the petitioner under the RTI Act is reproduced hereinbelow:-

1. In which daily weekly newspapers of English/Hindi/Punjabi and other languages tender notice issued by this office for the works as mentioned in "List of works"(At page 10 and 11 of this application) had been published date and day of the publication of the above asked tender notice be also informed.
2. Estimated cost of works as mentioned in "List of Works"(At page 10 and 11 of this application) be kindly informed.
3. Eligibility as fixed and laid down by this office for works as mentioned in "List of Works"(At page 10 and 11 of this application) be informed.
4. Documents which had to be on mandatory terms furnish/submit before this office in respect of proof of eligibility by the bidders/participants/tenderers in/of bid of works as mentioned in "List of Works" at page 10 and 11 of this application) be kindly informed. In "List of Works" (at page 10 and 11 of this application) be kindly informed.
5. Whether tender process is completed by this office in respect of works as mentioned in "List of works" at page 10 and 11 of this application) be kindly informed. If yes, Then date and day be informed in/on which this office had completed the foresaid/abovesaid tender process of the works as mentioned in "List of Works."
6. Name of Firm/Contractor/Company/Person be informed whom this office had issued work order for the works as mentioned in "List of Works" at page 10 and 11 of this application).
7. Name of employee of this office and his/her designation be informed which is/ was authorized by this office to sale the tender documents of the works as mentioned in "List of Works" at page 10 and 11 of this application).
8. Whether blacklisted contractors in Govt. offices and Department (Excluding this office) are/were permitted by this office to purchase tender for works as mentioned in "List of Works" at page 10 and 11 of this application).
9. Whether blacklisted contractors/company which were blacklisted by this office permitted by this office to purchase tender documents and file tender for the works as mentioned in "List of Works" at page 10 and 11 of this application).
10. What was/is the date of commencement of works as fixed by this office in respect of works as mentioned in "List of Works" at page 10 and 11 of this application.
11. What was/is the period of completion fixed by this office in respect of works as mentioned in "List of Works" at page 11 and 10 of this application.
12. What action and penalty had been fixed by this office against contractor/firm/ company who fails to complete works (as mentioned in "List of Works" at page 10 and 11 of this application) within stipulated period as fixed by this office for completion of work.

13. Whether foreign based contractors/firms/organizations/companies or/and non-Indian contractors/firms/organizations who are holding their office outside India and are not having office in India are permitted by this office to purchase tender documents for the works as mentioned in this application in "List of Works" at page 10 and 11.

14. Contractors/firms/companies minimum experience laid down/fixed by this office for issuance of work order for works as mentioned in this application in "List of Works" at page 10 and 11.

15. Contractors/firms/companies minimum turn over for last three years required by this office on mandatory terms in respect of issuance of works orders for works as mentioned in "List of Works" at page 10 and 11 in this application be informed.

16. Whether furnishing of certified copies of audit report by the companies/firms before this office who participated in bid on invitation of proposals by this office for works as mentioned in "List of Works" at page 10 and 11 in this application was required.

17. Equipments and quantity of each and every equipment be informed which was in mandatory terms required to be in possession of participants of bid/tenderers in respect of works as mentioned in "List of Works" at page 10 and 11 in this application.

18. Equipments and quantity of each and every equipment be informed which was in mandatory terms should have been under ownership of company/firm/contractor for obtaining work order for the works as mentioned in "List of Works" at page 10 and 11 in this application.

19. Whether tenderers/bidders in respect of works (As mentioned in "List of Works" at page 10, 11 of this application) was on mandatory terms required to furnish before this office details of their office and key persons employed by them? If yes, what exactly informations/details of office and key persons had to submit by the tenderers/bidders?

20. Whether tenderers/bidders in respect of works (as mentioned in "List of Works" at page 10, 11 of this application) had to submit experience certificates from client in support of having completed projects and works in similar field.

21. Name of Members of this office be informed who proposed works (As mentioned in "List of Works" at page 10 and 11 in this application) before this office.

22. Date of meeting be informed in which works (As mentioned in "List of Works" at page 10 and 11 in this application) were approved to be done.

23. Name of tender committee as for the works mentioned at "List of Works" at page 10 and 11 in this application be informed.

List of Works

- A) Repairing of Panka Road at Delhi Cantt.
- B) Installation of Tiles in Streets of Sadar Bazar, Delhi Cantt.
- C) Making of waiting hall at Old Nangal Cremation Ground.
- D) Work of Auto Tipper in Sadar Bazar and C.V.D. Lines.
- E) Installation of Fancy Lights from Sitaram Dwar to Mangalam Bharat Ghar at Old Nangal Delhi Cantt.
- F) Installation of R.M.C. at Slaughter House in Ward No. 7, Delhi Cantt.
- G) Govt. Quarters construction at M.H. Lines Delhi Cantt.
- H) Erection of buildings at Railway Colony Brar Square of Govt. Quarters at Delhi Cantt.
- I) Erection of 100 Beds Cantonment Board General Hospital.
- J) Construction of Old Age Centre at Delhi Cantt.
- K) Construction of Coffee Home at Delhi Cantt.
- L) Repairing of Footpaths in Ward No. 1, 2, 5 Delhi Cantt.
- M) Construction of Footpaths in Ward No. 1, 2, 5 Delhi Cantt.
- N) Demolition of trees in Delhi Cantt.
- O) Supply and installation of new machines in Cantonment General Hospitals Delhi Cantt.
- P) Installation of Air Conditioner and Air Conditioner Plants in Sarvodya Kanya Vidyalaya and Sarvodya Bal Vidyalaya at Delhi Cantt.
- Q) Repairing of Ground, Classrooms and installations of Air Conditioners and Air Conditioner Plant in Saint Martin's Diocesan School, Church Road, Delhi Cantt.
- R) Placing of tiles in Ward No. 7 and 8 Delhi Cantt.
- S) Construction of Bridges, Latrines and Urinals in Delhi Cantt and beautification in all Wards of Delhi Cantt.
- T) Construction of Bridge above Delhi Cantt Railway Station.
- U) Construction of Bridge from Cremation Ground (Shamshan Ghat) Old Nangal Rai to D-Block, Janak Puri.
- V) Construction of Bridge from Cremation Ground Old Nangal Rai to Kirby Place.
- W) Construction of Roads in Shastri Bazar and Ward No. 3, Delhi Cantt.
- X) Repairing of Roads in Shastri Bazar and Ward No. 3 Delhi Cantt.

Y) Repairing and Construction of Roads in Ward No. 1, 2, 4, 5, 6, 7, 8 Delhi Cantt.

3. The petitioner states that he is a financier who gives advances to various contractors working with Director General, Defence Estates.

4. Keeping in view the width and amplitude of the information sought by the petitioner, it is apparent that the prayers in the writ petition are nothing short of an abuse of process of law and motivated if not an attempt to intimidate the respondent. In fact, even two days ago, this Court had dealt with a writ petition filed by the present petitioner being W.P. (C) 784/2014 wherein equally wide information had been asked for under the RTI Act.

5. In the opinion of this Court, the primary duty of the officials of Ministry of Defence is to protect the sovereignty and integrity of India. If the limited manpower and resources of the Directorate General, Defence Estates as well as the Cantonment Board are devoted to address such meaningless queries, this Court is of the opinion that the entire office of the Directorate General, Defence Estates Cantonment Board would come to stand still. The Supreme Court in *Central Board of Secondary Education and Another Vs. Aditya Bandopadhyay and Others*, , has held as under:-

62. When trying to ensure that the right to information does not conflict with several other public interests (which includes efficient operations of the Governments, preservation of confidentiality of sensitive information, optimum use of limited fiscal resources, etc.), it is difficult to visualise and enumerate all types of information which require to be exempted from disclosure in public interest. The legislature has however made an attempt to do so. The enumeration of exemptions is more exhaustive than the enumeration of exemptions attempted in the earlier Act, that is, Section 8 of the Freedom of Information Act, 2002. The courts and Information Commissions enforcing the provisions of the RTI Act have to adopt a purposive construction, involving a reasonable and balanced approach which harmonises the two objects of the Act, while interpreting Section 8 and the other provisions of the Act.

63. At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of Section 3 and the definitions of "information" and "right to information" under clauses (f) and (j) of Section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in Section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non-available information and then furnish it to an applicant. A public authority is also not required to furnish information which require drawing of inferences and/or making of assumptions.

It is also not required to provide "advice" or "opinion" to an applicant, nor required to obtain and furnish any "opinion" or "advice" to an applicant. The reference to "opinion" or "advice" in the definition of "information" in Section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act.

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65. The power u/s 19(8) of the Act, however, does not extend to requiring a public authority to take any steps which are not required or contemplated to secure compliance with the provisions of the Act or to issue directions beyond the provisions of the Act. The power u/s 19(8) of the Act is intended to be used by the Commissions to ensure compliance with the Act, in particular ensure that every public authority maintains its records duly catalogued and indexed in the manner and in the form which facilitates the right to information and ensure that the records are computerised, as required under clause (a) of Section 4(1) of the Act; and to ensure that the information enumerated in clauses (b) and (c) of Section 4(1) of the Act are published and disseminated, and are periodically updated as provided in sub-sections (3) and (4) of Section 4 of the Act. If the "information" enumerated in clause (b) of Section 4(1) of the Act are effectively disseminated (by publications in print and on websites and other effective means), apart from providing transparency and accountability, citizens will be able to access relevant information and avoid unnecessary applications for information under the Act.

66. The right to information is a cherished right. Information and right to information are intended to be formidable tools in the hands of responsible citizens to fight corruption and to bring in transparency and accountability. The provisions of the RTI Act should be enforced strictly and all efforts should be made to bring to light the necessary information under clause (b) of Section 4(1) of the Act which relates to securing transparency and accountability in the working of public authorities and in discouraging corruption. But in regard to other information [that is, information other than those enumerated in Sections 4(1)(b) and (c) of the Act], equal importance and emphasis are given to other public interests (like confidentiality of sensitive information, fidelity and fiduciary relationships, efficient operation of Governments, etc.).

67. Indiscriminate and impractical demands or directions under the RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counterproductive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquillity and harmony

among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritising "information furnishing", at the cost of their normal and regular duties.

(emphasis supplied)

6. After all disproportionate diversion of limited resources to Directorate General, Defence Estates" office would also take its toll on the Ministry of Defence. The Supreme Court in *The Institute of Chartered Accountants of India Vs. Shaunak H. Satya and Others*, has held as under:-

39. We however agree that it is necessary to make a distinction in regard to information intended to bring transparency, to improve accountability and to reduce corruption, falling under Sections 4(1)(b) and (c) and other information which may not have a bearing on accountability or reducing corruption. The competent authorities under the RTI Act will have to maintain a proper balance so that while achieving transparency, the demand for information does not reach unmanageable proportions affecting other public interests, which include efficient operation of public authorities and the Government, preservation of confidentiality of sensitive information and optimum use of limited fiscal resources.

(emphasis supplied)

Consequently, this Court deems it appropriate to refuse to exercise its writ jurisdiction. Accordingly, present petition is dismissed. This Court is also of the view that misuse of the RTI Act has to be appropriately dealt with, otherwise the public would lose faith and confidence in this "sunshine Act". A beneficent Statute, when made a tool for mischief and abuse must be checked in accordance with law. A copy of this order is directed to be sent by the Registry to Defence and Law Ministry, so that they may examine the aspect of misuse of this Act, which confers very important and valuable rights upon a citizen.