
(2016) 01 DEL CK 0345
In the Delhi High Court
Case No : W.P. (C) 406/2016

Shail Sahni

APPELLANT

Vs

Valsa Sara Mathew and Others

RESPONDENT

Date of Decision : 19-01-2016

Acts Referred:

Freedom of Information Act, 2002 — Section 3, Section 8
Right to Information Act, 2005 — Section 19(8), Section 2, Section 2(f), Section 20,
Section 4, Section 4(1), Section 4(1) (b)

Citation : (2016) 3 ADDelhi 124

Hon'ble Judges : Manmohan, J.

Bench : Single Bench

Advocate : Anchit Sharma, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Manmohan, J.—1. The present writ petition has been filed challenging the order dated 30th October, 2015 passed by the Chief Information Commissioner (CIC). Petitioner also seeks information from respondent nos. 1 to 5 with respect to his RTI applications dated 5th March, 2014, 18th February, 2014 and 10th May, 2015 within seven days as well as compensation of Rs. 4 lacs under Sections 19(8) and 20 of the RTI Act.

2. Petitioner, who appears in person, states that CIC has committed an error in holding that Commission's interference is not required in the matter.

3. However, a perusal of the impugned order reveals that respondents have stated before CIC that if the petitioner were to file a fresh application with the PIO prioritizing his requirement and identifying the precise information he wants, the same shall be supplied to him.

4. This Court has also perused some of the RTI applications filed by the petitioner and finds that they are general, wide, omnibus and vague. For instance, petitioner's application dated 18th February, 2014 is reproduced hereinbelow:-

"A. 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) had been published date and day of the publication of the above asked tender notice be also informed.

B. Estimated cost of works (As mentioned in List of Works) be kindly informed.

C. Eligibility as fixed and laid down by this office for works (As mentioned in List of Works) be informed.

D. 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) be kindly informed.

E. Whether tender process is completed by this office in respect of works (As mentioned in List of Works) be kindly informed.

F. Date and Day be informed in/on which this office had completed the tender process of the weeks. (As mentioned in List of Works).

G. Name of Firm/Contractor/Company/Person be informed whom this office had issued work order for the works (As mentioned in List of Works).

H. 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 (As mentioned in List of Works).

I. 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).

J. 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).

K. What was/is the date of commencement of works as fixed by this office in respect of works (As mentioned in List of Works).

L. What was/is the period of completion fixed by this office in respect of works (As mentioned in List of Works).

M. 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) within stipulated period as fixed by this office for completion of work.

N. 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 List of Works).

O. Contractors/firms/companies minimum experience laid down/fixed by this

office for issuance of work order for (As mentioned in List of Works).

P. 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 (As mentioned in List of Works) be informed.

Q. 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 (As mentioned in List of Works) is required.

R. 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).

S. 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).

T. Whether tenderers/bidders in respect of works (As mentioned in (As mentioned in List of Works) 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?

U. Whether tenderers/bidders in respect of works (As mentioned in List of Works) submitted experience certificates from client in support of having completed projects and works in similar field.

V. Name of Members of this office be informed who proposed works (As mentioned in List of Works) before this office.

W. Date of meeting be informed in which works (As mentioned in List of Works) were approved to be done.

X. Whether Chief Executive Officer had initiated enquiry and investigation to ascertain whether works (As mentioned in List of Works) had liberally done and completed by the concerned contractor whom work order is being issued.

Y. Name of tender committee as for the works (As mentioned in List of Works) be informed.

Z. Whether concerned contractor whom work order is being issued for works (As mentioned in List of Works) had submitted "COMPLETION OF WORK REPORT" before Delhi Cantonment Board in respect of aforesaid works.

Z1. Whether Delhi Cantonment Board had released payment for works (As mentioned in List of Works) to the concerned contractor.

Z2. Photocopies or certified copies of documents submitted by successful bidder before DCB be supplied based of which work order is being issued by tender committee of Cantonment Board for works (As mentioned in List of Works).

List of Works

1. To Develop and maintain the green strips in between road and footpath of Maude Road, Delhi Cantt.
2. Term contract for supply and fixing of concrete garden benches and three guards in Delhi Cantt.
3. Term contract supplying and fixing of porta cabins in Delhi Cantt.
4. Term contract for repair of external electrification and other allied work in Delhi Cantonment Area, Delhi Cantt.
5. Term contract for supplying for CF building and boundary wall excluding water supply and electrification in Ward no. 2, 3, 4 and 6 Delhi Cantt.
6. Term contract for hard standing, brick paving footpath round about traffic island and parks in Ward no. 1, 5, 7 and 8, Delhi Cantt.
7. Term contract for repair/replacement of internal electrification and other allied work in Delhi Cantonment area, Delhi Cantt.
8. Term contract for repairs in Cantonment Board Schools, Delhi Cantt.
9. Re-construction of stainless steel bus-q-shelters in Delhi Cantonment area.
10. To develop and maintain the green strips in between road and footpath of Sadar Bazar Road, Delhi Cantt.
11. Repair of streets with ready mix concrete near Sulabh behind park and near CB School area, Village Jharera, Delhi Cantt.
12. Face lifting area of village Pehladpur, Delhi Cantt.
13. Entry gate near Sham Singh Street face lifting of area and security gates at Shastri Bazar.
14. Repair to drain inside Single Enclave.
15. Repair to walkways track at Trishul Park in Subroto Park.
16. Repair to clogged drain near pond at Village East Mehraum Nagar.
17. Repair to walkways at part in Arjun Vihar.
18. Repair to CB basket ball court at Shastri Bazar.
19. Repair to dust bin in Dhaula Kuan part-I.
20. Repari to dust bin in Dhaula Kuan part-2.
21. Repair to dust bin in ward no. 4, Delhi Cantt.
22. Repair to park near OHT, Sadar Bazar.
23. Repair to park at CVD Delhi Cantt.

24. Repair to the internal wiring of staff quarters near Slaughter House Old Nangal, Delhi Cantt.
25. Repair to internal wiring of type-11, type-IV quarters in front of CB Office, Sadar Bazar.
26. Repair/replacement of water pipe line from tube well near open well to main gate Mehrum Nagar Village, Delhi Cantt.
27. Repair/replacement of water pipe line in the water pipe line in the internal street of village Mehrum Nagar, Delhi Cantt.
28. Repair/replacement of 80 Mm DIA water pipe line from overhead tank to CB-92 village Nariana, Delhi Cantt.
29. Provisions of shed and other misc. Work at CB office, Delhi Cantt.
30. Repair to the internal wiring of all pump houses to Delhi Cantt Board.
31. Repair to the internal wiring of CF quarters near Sadar Bazar CB School, Delhi Cantt.
32. Improvement of water supply in Chaupal Area and diary area by installing two tubewell in village Jharera.
33. Repair/replacement of water pipe line in the streets near Sabzi Mandi in village Jharera.
34. Two high mask lights in 4 no. poultry farm ward no. 2, Delhi Cantt.
35. Repair to dustbins in ward no. 7 & 8.
36. Essential repairs to toilets, baths, wards, lobby area, rooms at CG hospital, Delhi Cantt.
37. Essential repairs to staff quarters in ward no. 7.
38. Essential repairs to staff quarters in ward no. 8.
39. Essential repairs to staff quarters in ward no. 3.
40. Replacement of old non-functional wiring & misc. Improvements to internal electrification at Cantt general hospital, Delhi Cantt.
41. Erection of iron gates at entry of CB area Nariana near cantonment board area, Nariana near CB-328, CB-384 and CB-385.
42. Service and repair to LT panel of cantonment general hospital.
43. Erection of iron gates at 4 no. poultry farm.
44. Repair to Nallah near Entry Point URI Enclave, Delhi Cantt.
45. Providing and fixing of wired/artificial animals in parks and roadside green belts in cantonment area.

46. Supply and fixation of CC tree guards at roads in Delhi Cantt.
47. Repair to dustbin in Shanker Vihar, ward no. 4, Delhi Cantt.
48. Repair to dustbin in Pratap Chowk, ward no. 3, Delhi Cantt.
49. Repair to road in front of 24 quarters, 32 quarters, 16 quarters, fire quarters, CVD & Chitral Lines Delhi Cantt.
50. Readymix cement concrete in streets at village East Mehrum Nagar.
51. Installation high mask lights at Village East Mehrum Nagar.
52. Installation high mask lights at Panchvati.
53. Installation high mask lights at More Liens.
54. Installation high mask lights at Pinto Park.
55. Construction and installation of two waiting sheds in Rock View.
56. Construction and installation of two waiting sheds in APS colony.
57. Installation of two high mask lights in RV Area Market and RC Hill.
58. RMC and interlocking paver blocks near MES staff quarters block at APS colony.
59. Acqua therapy pond in Asha School for CWSN, Delhi Cantt.
60. Term contract for hiring of jetting machine, super Succor, tippers, tractors JCB, poclain etc. for emergencies.
61. Re-boring of tube well at Sulabh complex village, old Nangal.
62. Improvement of record room at Defence Estates Officer office.
63. Repair to area drainage of COD, 505 and ESD, Delhi Cantt.
64. Redesigning of Alankar Community hall, Sadar Bazar.
65. Replacement of Old Semi auto analyzer for cantonment general hospital.
66. Re-boring and reconstruction of tube well near Guest House at Shastri Bazar, Delhi Cantt..
67. Construction of foot over bridge at village Old Nangal, near CB School.
68. Purchase of air-conditioned mobile dispensary.
69. Purchase of multimedia projector for CB office on DGS & D rate contract.
70. Term contract for repairs to cantonment general hospital, Delhi Cantt.
71. Purchase of educational softwares for CB schools.
72. Creation of Science Park in Cantonment Board School premises.

73. Extensive repair and addition/alteration to Mali quarters at Srinagesh Garden.
74. Shifting of Milk Booth and Taxi Stand at Shastri Bazar.
75. Installation of RO water treatment plants at Pump House at Shastri Bazar.
76. Installation of RO water treatment plants at Pump House at Village Old Nangal.
77. Installation of RO water treatment plants at Pump House at Village Jharera.
78. Installation of RO water treatment plants at Pump House at Sadar Bazar.
79. Repair to all streets and paths in Survey no. 52/14, Shastri Bazar.
80. Repair to all streets and paths in survey no. 52/15, Shastri Bazar.
81. Construction of shops in Gopi Nath Bazar for street hawkers whose name were approved in Board meeting held in 14.06.1994 vide Resolution no. 15.
82. Construction of electric crematorium at URI Enclave.
83. Replacement of sewer line in streets opposite park, Village Nariana.
84. Strengthening of boundary walls from CB-1 to CB-70, village Nariana.
85. Protecting the existing foot path brick wall by providing C.C. Kerb Stone at park, Village Nariana, Delhi Cantt.
86. Repair to boundary wall of cremation ground URI Enclave, Delhi Cantt.
87. Repair to CC path near Block no. T-1, T-3 and T-4, URI Enclave, Delhi Cantt.
88. Repair to dust bins in 505 base workshop area.
89. Cleaning of pond and its surrounding area at East Mehrum Nagar.
90. Repair/replacement of dust bins at RR hospital complex, Delhi Cantt.
91. Provisions of garden benches and playing equipments at park in Old Pinto Park.
92. Repair to hard standing in village Pehladpur.
93. Repair to Nallah in village Pehladpur.
94. Repair/replacement of water pipe line in the streets near CB-64 to CB-32 and CB-110 to CB-50 and connecting from tubewell near CB-77, village Nariana, Delhi Cantt.
95. Repair to drains in village Mehrum Nagar, Delhi Cantt.
96. Repair to path/pavement in village Mehrum Nagar, Delhi Cantt.
97. Repair to path/pavement in village, Jharera.
98. Repair/improvement to parks at Kabul Lines.

99. Repair to existing cement concrete path/pavement in parks at Kabul Lines.

100. Repair to existing Cantt Board Park at MES Office Enclave.

101. Repair to existing road from Jassal Store to Aggarwal Sweets at Sadar Bazar."

5. In fact, this Court, while dealing with an earlier writ petition filed by the petitioner with regard to a similar application under RTI Act, had observed as under:-

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

5. 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.

6. 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 *CBSE vs. AdityaBandopadhyay*, , (2011) 8 SCC 497, 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 to 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.

xxx xxx xxx xxx

65. The power under Section 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 under Section 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)

8. 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 *ICAI vs. Shaunak H. Satya*, , (2011) 8 SCC 781 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)

10. 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."

(emphasis supplied)

6. Since, despite the aforesaid judgment, the petitioner is still filing general, irrelevant and vague queries, this Court dismisses the present writ petition with

costs of Rs. 25,000/- to be paid by the petitioner to the Lok Nayak Hospital, New Delhi within a period of three weeks.

7. However, this Court records the assurance by learned counsel for respondents that they would abide by the statement made before CIC that if the petitioner were to file a fresh application with the PIO prioritizing his requirement and identifying the precise information, the same shall be supplied.