



Writ Petition Nos.20229 and 20351 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12/10/2022

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Writ Petition Nos.20229 and 20351 of 2013

a n d

M.P.Nos.1 to 3 of 2013

a n d

M.P.Nos.1 and 2 of 2013

Board of Control for Cricket in India
Registered under the
Tamil Nadu Societies Registration Act
rep. By its Manager (Game Development)
Having its Office at
M.A.Chidambaram Stadium
Chepauk
Chennai 600 005

...

Petitioner in
W.P.No.20229 of 2013

Tamil Nadu Cricket Association
rep. By its Hon.Secretary
M.A.Chidambaram Stadium
Victoria Hostel Road
Chepauk
Chennai 600 005.

...

Petitioner in
W.P.No.20351 of 2013

Vs



Writ Petition Nos.20229 and 20351 of 2013

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1. Central Information Commission

rep. By its Registrar
Room No.308 II Floor
August Kranti Bhawan
Bhikaji Cama Place
New Delhi 110 066.

2. Madhu Agarwal

1775 Kucha Lattushah
Dariba, Chandni Chowk
Delhi 110 006.

... Respondents in both the
writ petitions.

PRAYER : Petitions filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari to call for the records of the first respondent in its Notice dated 10/7/2013 to the petitioner bearing No.CIC/LS/C/2013/000031 under Section 18 of the RTI Act, 2005 to the petitioner and quash the same.

For Petitioners

... Mr.P.R.Raman
Senior Counsel
for Mr.C.Seethapathy

For respondents

... Mr.R.Sankaranarayanan
Additional Solicitor General of India
assisted by
Mr.V.Venkatasamy Babu
Central Government Standing Counsel
for R.1
Mrs.D.Nagasaila



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for R.2
COMMON ORDER

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These writ petitions have been filed to quash the Notice, dated 10/7/2013, passed by the first respondent, in No.CIC/LS/C/2013/000031.

2. Brief facts which are necessary for the disposal of these writ petitions are as follows:-

Petitioners are the Societies registered under the Tamil Nadu Societies Registration Act. Objects of the petitioners are promotion, development and administration of the game of Cricket in the Country. Members of the petitioners have developed their own infrastructural facilities over the course of several decades to host both domestic and international matches. The petitioners administer the game of Cricket with commendable skill and expertise and has contributed to the growth and popularity of the game of Cricket internationally.

3. The main case of the petitioners is that the petitioners does not fall within the ambit of the definition of “Public Authority”, as provided under



Section 2 (h) of the Right to Information Act, 2005, and hence the provisions of the Act are inapplicable to the petitioners. Even though, the petitioners are not the “Public Authority”, they have received an application from Anil Chintamani Khare whose request for information was denied, leading to filing of an Appeal No.13365 IICB/2008 FBC/07/266, before the first respondent. Vide, order, dated 21/1/2008, a decision was held that BCCI is not a “public authority” and the said decision was binding on the first respondent.

4. Following the abovesaid order, an order, dated 11/7/2011, in Appeal CIC/LS/A/2011/001382, between **OM PRAKASH KASIRAM and BCCI**, they have made a specific reference to the judgment of the Hon'ble Apex Court in the case of ***ZEE TELEFILMS LTD Vs. UNION OF INDIA***, reported in ***2005 (4) SCC 649***.

5. In these circumstances, the petitioners have received an application, dated 6/6/2013 from the second respondent, seeking information pertaining to various issues, including third party information such as list of organizations affiliated to BCCI with particulars and names of office bearers, complete information of Government provided facilities to each of them with details of



payment made to the Government in the last five years. Thus, the petitioners did not come under the said Act and did not have any obligation to provide any such information. The second respondent has filed a complaint to the first respondent. When the matters stood thus, Notice, dated 10/7/2013 was sent to the petitioners by the first respondent, seeking direction to furnish all the documents. Being aggrieved, the petitioners have come forward with the present writ petitions praying for the relief as stated therein.

6. Heard Mr.P.R.Raman, learned Senior Counsel for the petitioners, Mr.R.Sankaranarayanan, learned Additional Solicitor General of India for the first respondent and Mrs.D.Nagasaila, learned counsel for the second respondent.

7. The learned Senior Counsel appearing for the petitioners submitted that the first respondent is a quasi judicial authority bound by the law of precedent. The first respondent has no jurisdiction to direct the petitioners to provide the informations, as stated above. Unless the petitioners are deemed amenable to the Act, the question of providing such information to the respondents would not arise at all. Hence seeks to quash the Notice, dated



10/7/2017.

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8. Learned Senior Counsel appearing for the petitioners further submitted that Central Information Commission has already held that merely because BCCI is registered under the Societies Registration Act, does not bring BCCI under the purview of Right to Information Act. Having held so, Notice has been issued, as if Full Bench has been constituted by the Commission to hear the matter once again, based on the complaint given by the second respondent.

9. According to the learned Senior Counsel, as on today, Central Information Commission has no plenary powers to constitute a Full Bench, to consider the legality and correctness of the order passed by the Co-ordinate Bench. Central Information Commissioner has sought to overwrite not only the statutory provisions, but also the statutory rules, which is clearly impermissible. To substantiate his case, the learned Senior Counsel had produced a judgment of the Hon'ble Delhi High Court, reported in ***(2010 SCC Online 2058), DELHI DEVELOPMENT AUTHORITY Vs. CENTRAL INFORMATION COMMISSION & ANOTHER.***



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10. He further submitted that even the Hon'ble Apex Court, in ***BOARD OF CONTROL FOR CRICKET Vs. CRICKET ASSOCIATION OF BIHAR AND OTHERS (2016) 8 SUPREME COURT CASES – 535***, has opined that while considering the recommendation of Justice Lodha Committee, the Law Commission of India can examine the issue and make a suitable recommendation to the Government as to whether to bring BCCI under the ambit of Right to Information Act. Therefore, his contention that constituting the Full Bench and Larger Bench to unsettle the settled decision by the Commission is against the very Statute. Therefore, submitted that the impugned notice has to be set aside.

11. The learned Additional Solicitor General of India appearing for the first respondent submitted that only Rules have to be framed by the Government. However, in the Act, there is no such provision for Commission itself usurping such power.

12. Learned counsel appearing for the second respondent submitted that she was made as party since she was the Information seeker and submitted that



she has no say in these matters.

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13. I have perused the materials available on record.

14. Notice, dated 10/7/2013, issued to the writ petitioners, by the first respondent, reads as follows:-

“The commission has received a complaint filed by Ms.Madhu Agrawal, copy whereof is enclosed herewith. Keeping in view the complex issues of law involved in this matter, a Full Bench consisting of the CIC, IC (LS) and IC (BS) has been constituted to hear it. The matter is listed for hearing on 25 and 26/7/2013 at 16.00 hours, at Court Room No.314, II Floor, August Kranti Bhawan, Bhikaji Cama Place, New Delhi 110 066.

2. You are hereby directed to attend the hearing either personally or through an authorised



representative at the appointed date and time.

3. You are also hereby directed to send your written representation before the Commission, inter-alia, containing the following information:-

(i). Land and Buildings, including Stadia allotted by the State Government concerned (size in acres/square meters)

(ii). Annual rents being paid by State Cricket Association

(iii). Copies of lease deeds

(iv). Estimated market rentals

(v). Income Tax exemption, if any, for the last five years, viz., FY: 2007 – 08, 2008 – 09, 2009 – 10, 2010 – 11 & 2011 – 12

(vi). Customs Duty Exemption, if any, for the last five years viz., FY:2007 – 08, 2008 – 09, 2009 – 10, 2010 – 11 & 2011 – 12

(vii) Entertainment Tax exemption, if any, for the last five years viz: FY: 2007 – 8, 2008 – 09, 2009 – 10,



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2010 – 11 & 2011 – 12

(viii). Security expenses incurred by State Governments for organising cricket matches for the last five years viz: FFY: 2007 – 08, 2008 – 09, 2009 – 10, 2010 – 11 & 2011 – 12

(ix) Any other information.”

15. Central Information Commission has decided to constitute a Full Bench, to hear the matters relating to the complaint made by the second respondent. Besides, there is also a direction to furnish certain informations. It is relevant to note that Central Information Commission, in its orders, dated 21/1/2008 and 11/7/2011, in the cases of Shri Anil Chintaman Khare and Shri Om Prakash Kashiram, respectively, concluded as follows:-

“To bring any entity as a public authority within the ambit of the RTI Act, it has to satisfy at least one of the requirements of Section 2 (f). In the present case, BCCI as explained in its comments, does not fall under any of the categories stipulated in Section 2 (f).



Registration under an Act is different from being established under an Act. Therefore, merely because BCCI is registered under the Societies Registration Act, does not bring BCCI under the purview of the RTI Act. Accordingly, since BCCI is not a public authority in terms of Section 2 (f) of the Act, no direction can be given to the BCCI to furnish the information to the appellant and accordingly, the appeal is dismissed.”

16. Section 19 of the Right to Information Act, 2005, deals with the Appeal and the same reads as follows:-

“19. (1) Any person who, does not receive a decision within the time specified in sub-section (1) or clause (a) of sub-section (3) of section 7, or is aggrieved by a decision of the Central Public Information Officer or State Public Information Officer, as the case may be, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior



in rank to the Central Public Information Officer or State Public Information Officer as the case may be, in each public authority:

Provided that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) Where an appeal is preferred against an order made by a Central Public Information Officer or a State Public Information Officer, as the case may be, under section 11 to disclose third party information, the appeal by the concerned third party shall be made within thirty days from the date of the order.

(3) A second appeal against the decision under subsection (1) shall lie within ninety days from the date on which the decision should have been made or was actually received, with the Central Information Commission or the State Information Commission:

Provided that the Central Information Commission or



the State Information Commission, as the case may be, may admit the appeal after the expiry of the period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) If the decision of the Central Public Information Officer or State Public Information Officer, as the case may be, against which an appeal is preferred relates to information of a third party, the Central Information Commission or State Information Commission, as the case may be, shall give a reasonable opportunity of being heard to that third party.

(5) In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Central Public Information Officer or State Public Information Officer, as the case may be, who denied the request.

(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.

(7) The decision of the Central Information Commission or State Information Commission, as the case may be, shall be binding.

(8) In its decision, the Central Information Commission or State Information Commission, as the case may be, has the power to—

(a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including—

(i) by providing access to information, if so requested, in a particular form;

(ii) by appointing a Central Public Information Officer or State Public Information Officer, as the case may be;

(iii) by publishing certain information or categories of information;

(iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;



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(v) by enhancing the provision of training on the right to information for its officials;

(vi) by providing it with an annual report in compliance with clause (b) of sub-section (1) of section 4;

(b) require the public authority to compensate the complainant for any loss or other detriment suffered;

(c) impose any of the penalties provided under this Act;

(d) reject the application.

(9) The Central Information Commission or State Information Commission, as the case may be, shall give notice of its decision, including any right of appeal, to the complainant and the public authority.

(10) The Central Information Commission or State Information Commission, as the case may be, shall decide the appeal in accordance with such procedure as may be prescribed.”



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17. Section 27 of the Right to Information Act deals with the **Power to make rules by appropriate Government** and the same reads as follows:-

(1). The appropriate Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2). In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a). the cost of the medium or print cost price of the materials to be disseminated under sub-Section (4) of Section 4;

(b). the fee payable under sub-Section (1) of Section 6;

(c). the fee payable under sub-Sections (1) and (5) of Section 7;

(d). the salaries and allowances payable to and the terms and conditions of service of the officers and other



employees under sub-Section (6) of Section 13 and sub-Section (6) of Section 16;

(e). the procedure to be adopted by the Central Information Commissioner or State Information Commission as the case may be, in deciding the appeals under sub-Section (10) of Section 19; and

(f) any other matter which is required to be, or may be, prescribed.”

18. On a careful perusal of the above Sections, a procedure to be adopted by the Central Information Commission or State Information Commission, as the case may be, in deciding the appeals are under sub-Section (10) of Section

19. On a plain reading of Sections 19 and 27, this Court is of the view that there is no plenary power vested with the Central Information Commission to frame Rules to decide the appeals by constituting Division Bench or Full Bench, as the case may be.

19. In ***OM PRAKASH KASHIRAM Vs. BOARD OF CONTROL FOR CRICKET IN INDIA (BCCI)***, on 11/7/2011, in CIC/LS/A/2011/001382,



Central Information Commission, took a similar view, relying upon the judgment of the Hon'ble Apex Court, in ***ZEE TELE PRINTS LTD AND ANOTHER Vs. UNION OF INDIA***, wherein, it has been held that BCCI is not a State in terms of Article 12 of the Constitution. By holding so, held that BCCI is not a Public Authority in terms of Section 2 (h) of the Right to Information Act. Now, the impugned Notice has been issued to constitute the Full Bench to hear the complaint once again, under the Right to Information Act by constituting Full Bench.

20. In ***DELHI DEVELOPMENT AUTHORITY Vs. CENTRAL INFORMATION COMMISSION AND ANOTHER (2010 SCC ONLINE DL 2058)***, a Hon'ble Division Bench of Delhi High Court, at paragraph 39, has compared the Central Information Commission (Appeal Procedure) Rules, 2005 and the impugned Central Information Commission (Management) Regulations, 2007, and the same is extracted hereunder:-

Comparison between the Central Information Commission (Appeal Procedure) Rules 2005 and the Impugned Central Information Commission (Management) Regulations 2007



Central Information Commission (Appeal Procedure) Rules 2005	The Central Information Commission (Management) Regulations 2007
In exercise of the powers conferred by clauses (e) and (f) of sub-section (2) of section 27 of the Right to Information Act, 2005 (22 of 2005), the Central Government hereby makes the following rules, namely:- 1. Short Title and commencement. - (1) These rules may be called the Central Information Commission (Appeal Procedure) Rules, 2005. (2) They shall come into force on the date of their publication in the Official Gazette.	In exercise of the powers conferred by section 12(4) of the Right to Information Act, 2005 (Act 22 of 2005) and all other provisions in the Act enabling in this behalf, the Chief Information Commissioner hereby makes the following Regulations for management of the affairs of the Central Information Commission so as to enable it to function effectively. Chapter-1: Short Title and Commencement:- (i) These Regulations may be called -the Central Information Commission (Management) Regulations, 2007?. (ii) They shall come into force with effect from such date as the Chief Information Commissioner may by order specify.
No such provision has been made under these Rules.	CHAPTER – IV: Registration, Abatement or Return of Appeal. 7. Appeal or complaint etc. to be in writing:- Every appeal, complaint, application, statement, rejoinder, reply or any other document filed before the Commission shall be typed, printed or written neatly and legibly and in double line spacing and the language used therein shall be formal and civilized and should not be in any way indecent or abusive. The appeal, complaint or an application shall be presented in at least two sets in a paper-book form.
3. Contents of appeal.- An appeal to the Commission shall contain the following information, namely.- (i) name and address of the appellant ; (ii) name and address of the Central Public Information Officer against the decision of whom the appeal is preferred. (iii) particulars of the order including number, if any, against which the appeal is preferred ; (iv) brief facts leading to the appeal ; (v) If the appeal is preferred against deemed refusal, the particulars	8. Contents of appeal or complaint:- (1) An appeal or a complaint to the Commission shall contain the following information, namely:- (i) name, address and other particulars of the appellant or complainant, as the case may be; (ii) name and address of the Central Public Information Officer (CPIO) or the Central Assistant Public Information Officer (CAPIO) against whom a complaint is made under Section 18 of the Act, and the name and address of the



Central Information Commission (Appeal Procedure) Rules 2005	The Central Information Commission (Management) Regulations 2007
of the application, including number and date and name and address of the Central Public Information Officer to whom the application was made; (vi) prayer or relief sought; (vii) grounds for the prayer or relief; (viii) verification by the appellant; and (ix) any other information which the Commission may deem necessary for deciding the appeal.	First Appellate Authority before whom the first appeal was preferred under Section 19(1) of the Act. (iii) particulars of the decision or order, if any, including its number and the date it was pronounced, against which the appeal is preferred; (iv) brief facts leading to the appeal or the complaint; (v) if the appeal or complaint is preferred against refusal or deemed refusal of the information, the particulars of the application, including number and date and name and address of the Central Public Information Officer to whom the application was made and name and address of the First Appellate Authority before whom the appeal was filed; (vi) prayer or relief sought; (vii) grounds for the prayer or relief; (viii) verification by the appellant or the complainant, as the case may be; and (ix) any other information which may be deemed as necessary and helpful for the Commission to decide the appeal or complaint. (2) The contents of the complaint shall be in the same form as prescribed for the appeal with such changes as may be deemed necessary or appropriate.
4. Documents to accompany appeal. - Every appeal made to the Commission shall be accompanied by the following documents, namely. (i) self-attested copies of the orders or documents against which the appeal is being preferred ; ii) copies of documents relied upon by the appellant and referred to in the appeal ; and (iii) an index of the documents referred to in the appeal.	9. Documents to accompany appeal or complaint:- Every appeal or complaint made to the Commission shall be accompanied by self attested copies/photo copies of the following documents, namely:- (i) The RTI application submitted before the CPIO along with documentary proof as regards payment of fee under the RTI Act; (ii) The order, or decision or response, if any, from the CPIO to whom the application under the RTI Act was submitted. (iii) The First appeal submitted before the First Appellate Authority with documentary proof of filing the First Appeal. (iv) The Orders or decision or response, if any, from the First



Central Information Commission (Appeal Procedure) Rules 2005	The Central Information Commission (Management) Regulations 2007
	Appellate Authority against which the appeal or complaint is being preferred; (v) The documents relied upon and referred to in the appeal or complaint; (vi) A certificate stating that the matters under appeal or complaint have not been previously filed, or are pending, with any court or tribunal or with any other authority; (vii) An index of the documents referred to in the appeal or complaint; and (viii) A list of dates briefly indicating in chronological order the progress of the matter up to the date of filing the appeal or complaint to be placed at the top of all the documents filed. 10. Service of copies of Appeal/Complaint Before submitting an appeal or complaint to the Commission, the appellant or the complainant shall cause a copy of the appeal or complaint, as the case may be, to be served on the CPIO/PIO and the Appellate Authorities and shall submit a proof of such service to the Commission.
No such provision has been made under these Rules	Provided that if a complainant does not know the name, address and other particulars of the CPIO or of the First Appellate Authority and if he approaches the Commission under Section 18 of the Act, he shall cause a copy of his complaint petition to be served on the concerned Public Authority or the Head of the Office and proof of such service shall be annexed along with the complaint petition.
No such provision has been made under these Rules	11. Presentation and scrutiny of appeal or complaint:- (i) The Registrar shall receive any appeal or complaint petition addressed to the Commission and ensure that (a) the appeal or the complaint, as the case may be, is submitted in prescribed format; (b) that all its contents are duly verified by the appellant or the complainant, as the case may be; (c) that the appeal or the complaint is in accordance with the Regulations. (ii) The Registrar shall also ensure that the appeal or the complaint petition contains



Central Information Commission (Appeal Procedure) Rules 2005	The Central Information Commission (Management) Regulations 2007
	copies of all required documents such as: (i) RTI application (ii) Receipt of the RTI Application (iii) Proof in regard to payment of fee/cost, if any; (iv) Decision/reply etc. from the CPIO, if any; (v) Appeal to the 1st Appellate Authority; (vi) Decision of the 1st Appellate Authority, if any. (iii) The Registrar shall scrutinize every appeal/complaint received and will ensure — (a) that the appeal or the complaint petition is duly verified and required number of copies are submitted; (b) That all the documents annexed are duly paginated and attested by the appellant or the complainant. (c) That the copies of the documents filed and submitted are clear, distinct and legible; (iv) That the Registrar will return any such appeal or the complaint if it does not meet the requirement or conform to the standard as set out above and permit its resubmission in proper form. (v) The Registrar may reject any such appeal or complaint petition — (a) if it is time-barred; or (b) if it is otherwise inadmissible; or (c) if it is not in accordance with these Regulations. Provided that no such appeal or complaint petition shall be rejected by the Registry unless the concerned appellant or the complainant is given an opportunity of being heard. The decision of the Registrar in regard to the issue of maintainability of an appeal or a complaint shall be final. (vi) All appeals and Complaints not rejected or returned as above and found in order shall be registered and a specific number will be allocated. (vii) The Registrar or any other officer authorized by the Commission shall endorse on every appeal or complaint the date on which it is presented. (viii) The appeals and complaints shall bear separate serial numbers so that they can be easily identified under separate heads. (ix) If any appeal or complaint is found to be defective and



Central Information Commission (Appeal Procedure) Rules 2005	The Central Information Commission (Management) Regulations 2007
	the defect noticed is formal in nature, the Registrar may allow the appellant or complainant to rectify the same in his presence or may allow two weeks time to rectify the defect. If the appeal or complaint has been received by post and found to be defective, the Registrar may communicate the defect(s) to the appellant or complainant and allow him two weeks time from the date of receipt of communication from the Registrar to rectify the defects. (x) If the appellant or complainant fails to rectify the defects within the time allowed in clause (ix) above, the appeal or complaint shall be deemed to have been withdrawn. (xi) An appeal or complaint which is not in order and is found to be defective or is not as per prescribed format is liable to be rejected. Provided that the Registrar may, at his discretion, allow an appellant or complainant to file a fresh appeal or complaint in proper form.
No such provision has been made under these Rules.	12. Filing of Counter Statement by the Central Public Information Officer or the First Appellate Authority:- After receipt of a copy of the appeal or complaint, the Central Public Information Officer or the First Appellate Authority or the Public Authority shall file counter statement along with documents, if any, pertaining to the case. A copy of the counter statement(s) so filed shall be served to the appellant or complainant by the CPIO, the First Appellate Authority or the Public Authority, as the case may be.
	13. Posting of appeal or complaint before the Information Commissioner:- (i) An appeal or a complaint, or a class or categories of appeals or complaints, shall be heard either by a Single Information Commissioner or a Division Bench of two Information Commissioners, or a Full Bench of three or more Information



Central Information Commission (Appeal Procedure) Rules 2005	The Central Information Commission (Management) Regulations 2007
	Commissioners, as decided by the Chief Information Commissioner by a special or general order issued for this purpose from time to time. (ii) Where in the course of the hearing of an appeal or complaint or other proceeding before a Single Information Commissioner, the Commissioner considers that the matter should be dealt with by a Division or Full Bench, he shall refer the matter to the Chief Information Commissioner who may thereupon constitute such a Bench for the hearing and disposal of the matter. (iii) Similarly, where during the course of the hearing of a matter before a Division Bench, the Bench considers that the matter should be dealt with by a Full Bench, or where a Full Bench considers that a matter should be dealt with by a larger Bench, it shall refer the matter to the Chief Information Commissioner who may thereupon constitute such a Bench for the hearing and disposal of the matter.
No such provision has been made under these Rules.	14. Amendment or withdrawal of an Appeal or Complaint: The Commission may in its discretion allow a prayer for any amendment or withdrawal of an appeal or complaint during the course of its hearing if such a prayer is made by the appellant or complainant on an application made in writing. However, no such prayer may be entertained by the Commission after the matter has been finally heard or a decision or order has been pronounced by the Commission.
5. Procedure in deciding appeal.- In deciding the appeal the Commission may.- (i) hear oral or written evidence on oath or on affidavit from concerned or interested person ; (ii) peruse or inspect documents, public records or copies thereof ; (iii) inquire through authorised officer further details or facts ; (iv) hear Central Public Information Officer, Central Assistant Public	18. Evidence before the Commission: In deciding an appeal or a complaint, the Commission may:- (i) receive oral or written evidence on oath or on affidavit from concerned person or persons; (ii) peruse or inspect documents, public records or copies thereof; (iii) inquire through authorized officer further details or facts; (iv) examine or hear in person or



Central Information Commission (Appeal Procedure) Rules 2005	The Central Information Commission (Management) Regulations 2007
Information Officer or such Senior Officer who decided the first appeal, or such person against whom the complaint is made, as the case may be ; (v) hear third party ; and (vi) receive evidence on affidavits from Central Public Information Officer, Central Assistant Public Information Officer, such Senior Officer who decide the first appeal, such person against whom the complaint lies or the third party. (vi) receive evidence on affidavits from Central Public Information Officer, Central Assistant Public Information Officer, such Senior Officer who decide the first appeal, such person against whom the complaint lies or the third party.	receive evidence on affidavit from Central Public Information Officer, Central assistant Public Information Officer or such Senior Officer who decided the first appeal or such person or persons against whom the complaint is made as the case may be; or (v) examine or hear or receive evidence on affidavit from a third party, or an intervener or any other person or persons, whose evidence is considered necessary or relevant.
6. Service of notice by Commission.- Notice to be issued by the Commission may be served in any of the following modes, namely.- (i) service by the party itself ; (ii) by hand delivery (dasti) through Process Server ; (iii) by registered post with acknowledgment due ; or (iv) through Head of Office or Department.	No such provision has been made under these Regulations.
7. Personal presence of the appellant or complainant. - (1) The appellant or the complainant, as the case may be, shall in every case be informed of the date of hearing at least seven clear days before that date. (2) The appellant or the complainant, as the case may be, may at his discretion at the time of hearing of the appeal or complaint by the Commission be present in person or through his duly authorised representative or may opt not to be present. (3) Where the Commission is satisfied that the circumstances exist due to which the appellant or the complainant, as the case may be, is being prevented from attending the hearing of the Commission, then, the Commission may afford the appellant or the complainant, as the case may	15. Personal presence of the appellant or complainant:- (i) The appellant or the complainant, as the case may be, shall be informed of the date of hearing at least seven clear days before that date. (ii) The appellant or the complainant, as the case may be, may at his discretion be present in person or through his duly authorized representative at the time of hearing of the appeal or complaint by the Commission, or may opt not to be present. (iii) Where the Commission is satisfied that circumstances exist due to which the appellant or the complainant is being prevented from attending the hearing of the Commission, the Commission may afford the appellant or the complainant, as the case may be, another



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Central Information Commission (Appeal Procedure) Rules 2005	The Central Information Commission (Management) Regulations 2007
be, another opportunity of being heard before a final decision is taken or take any other appropriate action as it may deem fit. (4) The appellant or the complainant, as the case may be, may seek the assistance of any person in the process of the appeal while presenting his points and the person representing him may not be a legal practitioner.	opportunity of being heard before a final decision is taken or take any other appropriate action as it may deem fit. (iv) The appellant or the complainant, as the case may be, may seek the assistance of any person while presenting his case before the Commission and the person representing him may not be a legal practitioner. (v) If an appellant or complainant at his discretion decides not to be present either personally or through his duly authorized representative during the hearing of an appeal or complaint before the Commission, the Commission may pronounce its decision or order in the matter <i>ex parte</i>.
No such provision has been made under these Rules.	16. Date of hearing to be notified:- The Commission shall notify the parties the date and place of hearing of the appeal or complaint in such manner as the Chief Information Commissioner may by general or special order direct.
8. Order of the Commission. - Order of the Commission shall be pronounced in open proceedings and be in writing duly authenticated by the Registrar or any other officer authorised by the Commission for this purpose.	22. Communication of decisions and Orders:- (i) Every decision or order of the Commission shall be signed and dated by the Commissioner or Commissioners who have heard the appeal or the complaint or have decided the matter. (ii) Every decision/order of the Commission may either be pronounced in one of the sittings of the Commission, or may be placed on its website, or may be communicated to the parties under authentication by the Registrar or any other officer authorized by the Commission in this regard. (iii) Every such decision or order, whenever pronounced by a Single Information Commissioner or by a Division Bench or by a Full Bench of three or more Information Commissioners, shall be deemed to be the



Central Information Commission (Appeal Procedure) Rules 2005	The Central Information Commission (Management) Regulations 2007
	decision or order by the Commission under the Act.
No such provision has been made under these Rules.	17. Adjournment of Hearing:- The appellant or the complainant or any of the respondents may, for just and sufficient reasons, make an application for adjournment of the hearing. The Commission may consider the said application and pass such orders as it deems fit.
No such provision has been made under these Rules.	19. Issue of summons:- Summons to the parties or to the witnesses for appearance or for production of documents or records or things shall be issued by the Registrar under the authority of the Commission, and it shall be in such form as may be prescribed by the Commission.
No such provision has been made under these Rules	20. Conduct of an enquiry: - The Commission may entrust an enquiry in connection with any appeal or complaint pending before it to the Registrar or any other officer for the purpose and the Registrar or such other officer while conducting the enquiry shall have all the necessary powers including power to — (i) summon and enforce attendance of persons; (ii) compel production of documents or things; (iii) administer oath and to take oral evidence or to receive affidavits or written evidence on solemn affirmation; (iv) inspect documents and require discovery of documents; and (v) requisition any public record or documents from any public authority.
No such provision has been made under these Rules.	21. Award of costs by the Commission:- The Commission may award such costs or compensation to the parties as it deems fit having regard to the facts and circumstances of the case. 23. Finality of Decision:- (1) A decision or an



Central Information Commission (Appeal Procedure) Rules 2005	The Central Information Commission (Management) Regulations 2007
	order once pronounced by the Commission shall be final (2) An appellant or a complainant or a respondent may, however, make an application to the Chief Information Commissioner for special leave to appeal or review of a decision or order of the case and mention the grounds for such a request;
No such provision has been made under these Rules.	(3) The Chief Information Commissioner, on receipt of such a request, may consider and decide the matter as he thinks fit.
No such provision has been made under these Rules.	24. Abatement of an Appeal/Complaint:- The proceedings pending before the Commission shall abate on the death of the appellant or complainant.

21. In the above Rule, Rule 13 relates to **Posting of appeal or complaint before the Information Commissioner**. Rules were framed to the effect that the appeal or complaint or the case may be, complaints shall be heard at all by a Single Information Commissioner or a Division Bench of two Information Commissioners, or a full Bench of three or more Information Commissioners, as decided by the Chief Information Commissioner by a special or general order issued for this purpose from time to time.



22. When the elaborate Rules have been put in challenge, Delhi High Court struck down in entirety and held in paragraph 38 as follows:-

“38. We would also like to point out that Section 27, which empowers the appropriate government to make rules to carry out the provisions of this Act, specifically speaks of the power to make rules with regard to the procedure to be adopted by the Central Information Commission or the State Information Commission, as the case may be, in deciding an appeal under sub-section (10) of Section 19 of the RTI Act. This power is particularly spelt out in Section 27(2)(e) of the said Act. In exercise of this power, the Central Government, being the 'appropriate government' has, in fact, framed the rules - The Central Information Commission (Appeal Procedure) Rules, 2005. But, we find that the Chief Information Commissioner, who has arrogated to himself the power to do anything under the guise of the provisions of Section 12(4) of the said Act,



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has formulated the impugned Regulations which also specifically provide for the registration, abatement or return of appeals' in Chapter IV of the impugned Regulations. The procedure prescribed under the regulations, if compared with the appeal procedure prescribed under the Central Information Commission (Appeal Procedure Rules) 2005, would reveal that the same are at variance. The following comparative table demonstrates this variance:-

23. In Paragraph 40, the Hon'ble Division Bench has held that Chief Information Commissioner has sought to overwrite not only the statutory provisions, but also the statutory rules. This is clearly impermissible, by holding that the entire Rules framed by the Commission not only with regard to the appeals but the other procedure struck down by the Delhi High Court. When the substantive provision of law and Rules framed by the appropriate Government do not confer any plenary powers to the first respondent. The first respondent in the absence of any statutory backing cannot usurp the plenary powers to constitute Division Bench or Full Bench to their convenience to



unsettle the decision already taken by the Commission, holding that BCCI is not a public authority. Section 19 also makes it very clear that the decision of the Commission is binding on the parties.

24. In such a view of the matter impugned notice issued by the first respondent constituting for the Bench and also seeking further information is impermissible in the eye of law and against the very statute. Even the Hon'ble Apex Court in ***BOARD OF CONTROL FOR CRICKET Vs. CRICKET ASSOCIATION OF BIHAR AND OTHERS (2016) 8 SUPREME COURT CASES – 535***, at paragraph 93 has observed that whether BCCI brought under the purview of Right to Information Act or not only Law Commission of India has to examine the issue and make a suitable recommendation to the Government. In such being a position in the absence of any statutory Rules or substantive provisions of law usurping the plenary power by the Commission is impermissible. Accordingly, impugned notices are quashed.

25. In the result, these writ petitions are allowed and Notice dated 10/7/2013 issued to the petitioner bearing No.CIC/LS/C/2013/000031, is

N. SATHISH KUMAR, J



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hereby quashed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

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Index : Yes / No

Internet: Yes

Speaking/non speaking order

mvs.

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