

D/L. 24.
November 30, 2023.
MNS.

WPA No. 25037 of 2023

Tathagata Datta
Vs.
Central Information Commission
and others

Mr. Tathagata Datta

...Petitioner in person.

Mr. Sanajit Kumar Ghosh,
Ms. Rini Bhattacharyya

...for the respondents.

1. Leave is granted to the petitioner to move the matter in person.
2. This is a comedy of errors. The petitioner approached for certain information from the SPIO which being refused, a first appeal was preferred by the petitioner under the Right to Information Act, 2005. Although the First Appellate Authority specifically directed the SPIO to provide the information-in-question, the same was refused to be given by the Sr. Divl. Operation Manager & PIO, Eastern Railway, Sealdah on the ground that inspection note made by the officials of an organization normally relates to the functioning of the organization, which is a document meant for

internal circulation within the organization and is exclusively for the office only.

3. Surprisingly, the petitioner, instead of seeking implementation of the order of the first appellate authority upon the violation of the same by the above refusal dated August 25, 2022 (Annexure P5 at page 27 of the writ petition), preferred a second appeal before the appropriate authority, which was ultimately turned down on the ground that the order of the first appellate authority did not suffer from any illegality.

4. The respondent authorities place reliance on the dismissal of the second appeal by the second appellate authority to submit that the petitioner cannot reiterate his claim for furnishing of the information-in-question.

5. Although it is not clearly understood as to what prompted the petitioner to prefer a second appeal against the order of the first appellate authority, which was in his favour, instead of seeking an implementation of the same, the said action may be attributed to the fact that the petitioner has been litigating in person and is a layman in law.

6. Be that as it may, the ultimate effect of the dismissal of the second appeal is that the order of

the first appellate authority was affirmed. The relevant portion of the order of the first appellate authority dated August 24, 2022 is quoted hereinbelow :

“DECISION:

I have gone through the matter. I do not agree with the contention of the Sr. DOM & PIO, Eastern Railway, Sealdah. In the context of RTI application, Sr. DOM & PIO, Eastern Railway, Sealdah is directed to provide item wise information as available on record with Operating department within 15 days from receipt of this order.”

7. The crux of the said order is that the Sr. DOM & PIO, Eastern Railway, Sealdah was directed to provide item wise information as available on record with the Operating department within 15 days from receipt of the said order.

8. It is noteworthy that there was no qualification in the said order as to what information was required to be given. The unqualified and unambiguous direction of the first appellate authority on the Sr. DOM & PIO, Eastern Railway, Sealdah, was to provide item wise information as available on record, as sought by the petitioner.

9. The said order was actually affirmed by the dismissal of the second appellate authority and,

as such, the respondent authorities cannot resile from such position, having not preferred any challenge to the said order of the first appellate authority.

10. The subsequent refusal dated August 25, 2022 by citing Sections 8(1)(d) & 8(1)(e) of RTI Act, 2005, is palpably illegal, being in gross contradiction of the order of the first appellate authority, and cannot be sustained from any angle.

11. Although the respondents are now seeking to set up a new case by reopening the chapter and argue that the information was refused for the sake of safety and secrecy with regard to the future tenders and the functioning of the railways, the said attempt on the part of the respondents is *post facto*. The direction of the first appellate authority having attained finality, the same cannot now be reopened by the respondent authorities, who are bound by the said direction to furnish the information sought by the petitioner in its entirety.

12. In any event, the information sought was regarding train number, name of inspection by the authorities, vehicle guidance of concerned trains from which inspections were made, legible copies of permits issued by Sr. DOM, Sealdah on behalf

of employees working under Unified SM Cadre performing inspectorial job to conduct inspections, etc., which cannot have any vital bearing on the safety and security of any functioning of the railways.

13. It has to be reiterated that the respondent authorities are bound by the order of the first appellate authority to give all information to the petitioner.

14. Accordingly, WPA No. 25037 of 2023 is allowed on contest, thereby directing the respondent no. 4, that is, the Senior Divisional Operations Manager cum Public Information Officer, Sealdah Division, Eastern Railway, to furnish the information sought by the petitioner in its entirety as per the direction dated August 24, 2022 issued by the first appellate authority (Annexure P4 at page 25 of the writ petition) positively within a fortnight from date.

15. The parties, for the purpose of compliance, shall act on the server copy of this order without insisting upon prior production of certified copy thereto.

16. There will be no order as to costs.

17. Urgent photostat certified copies of this order, if applied for, be made available to the

parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)