

D/L. 7.
February 22, 2024.
MNS.

WPA No. 10179 of 2023

Antara Choudhury
Vs.
The Information Commissioner and others

Mr. Siddhartha Banerjee,
Ms. Soni Ojha

... for the petitioner.

Mr. Subhankar Nag,
Mr. Snehashis Sen

...for the respondent-authorities.

1. Affidavit-of-service filed in Court today be kept on record.
2. The decision of the Second Appellate Authority under the Right to Information Act, 2005 (2005 Act) has been challenged by the petitioner.
3. The petitioner made several queries, eight in number, to the Central Public Information Officer (in short "CPIO"). Ultimately, the matter went up to the Second Appellate Authority, which, apart from giving an advisory, virtually refused the prayer of the petitioner and directed the CPIO to provide a point-wise categorical reply stating that the information sought for at point nos. 4 to 8 of

the 2005 Act do not conform to Section 2(f) of the RTI Act.

4. Learned counsel for the petitioner also places reliance on Section 2(f) of the RTI Act to argue that the information sought by the petitioner comes within the purview of the same.
5. Learned counsel appearing for the Port Authorities submits that the queries made by the petitioner are in the nature of legal advice. It is argued that there is no infirmity in the order of the Second Appellate Authority as the very nature of the questions do not permit any specific reply to be given thereto.
6. A perusal of the relevant queries shows that insofar as the first query is concerned, regarding the power entrusted to and duties to be performed by the Land Manager, Syama Prasad Mookerjee Port, Kolkata, as provided for under the Major Port Trusts Act, 1963 (Act of 1963), the same is a legal advice sought by the petitioner and does not come within the purview of "information" under the 2005 Act. The same logic applies to query no. 5, which is, whether the powers and duties of the Land Manager, of the Syama Prasad Mokerjee Port, Kolkata as provided for under the Act of 1963 can be delegated to any other officer

temporarily during his/her absence. The question as to whether such delegation can occur falls within the domain of the said statute and is a matter of interpretation thereof and the CPIO cannot be expected to give a reply to the query under the 2005 Act.

7. Also, with regard to query no. 7, it asks whether the sanction of the Central Government is a mandatory requirement for delegation of powers by the Chairman of Syama Prasad Mukherjee Port, Kolkata, to the Land Manager. The same falls within the purview of an interpretation of the extant law. Thus, the CPIO cannot be directed to furnish such information, which is in fact in the nature of legal advice.
8. However, insofar as the rest of the queries are concerned, they can broadly come within the domain of the 2005 Act.
9. In query No. 2, the petitioner asks what are the powers entrusted to and duties to be performed by the Land Manager-in-Charge of the Syama Prasad Mookerjee Port, Kolkata, as provided under the Act of 1963, with reference to the nature, scope and limitation of such powers and duties. The said query relates to the particular powers generally exercised by the Land Manager, which have

been specifically entrusted to the Land Manager-in-Charge, which is an information which can validly be sought under the 2005 Act.

10. Similarly, query no. 3 asks which designatory of Syama Prasad Mookerjee Port, Kolkata, would discharge the duties and powers of the Land Manager as provided for under the Act of 1963 in the absence of a regular Land Manager and under what capacity.

11. Query no. 4 also pertains to whether the Land Manager-in-Charge of Syama Prasad Mookerjee Port, Kolkata, or any other designatory, while discharging the duties, responsibilities and/or acting in place of a regular Land Manager would be empowered to take any independent decision and/or sign upon any notice, document and/or to execute any agreement on behalf of the Board of Trustees with reference to notifications with regard thereto.

12. Query no. 6 asks whether the post of the Land Manager is equivalent to that of the Head of a Department, which can only be answered by the CPIO with reference to a particular memorandum/notification, if any.

13. Lastly, question no. 8 is whether the Land Manager-in-Charge of said Port enjoys all the

powers and responsibilities as that are enjoyed by the regular Land Manager with reference to particular notification. Query No. 8 falls within the broad purview of Query No. 2 and, as such, can be merged with Query No. 2.

14. The said question is also a valid information which can be sought under the 2005 Act

15. Accordingly, WPA No. 10179 of 2023 is disposed of by modifying the impugned order of the Second Appellate Authority and directing the CPIO to furnish information in terms of the queries made by the petitioner in question nos. 2, 3, 4, 6 and 8 as originally asked by the petitioner.

16. However, the petitioner shall, within a week from date, disclose the particular period for which the said queries are made.

17. Upon such additional particular being given by the petitioner, the CPIO, that is, respondent no. 3 shall furnish the information sought by the petitioner to the best of the information available to the respondent no. 3 as early as possible, preferably within five weeks from date.

18. There will be no order as to costs.

19. 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.)