



\$~75

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **W.P.(C) 2707/2017 & CM APPL. 11757/2017 (*for stay*)**  
**DELHI POLLUTION CONTROL COMMITTEE / BOARD**

.....Petitioner  
Through: Ms. Tanisha Samanta, Mr. Rajkumar  
Maurya, Advocates.

versus

ANIL SOOD .....Respondent  
Through: None

**CORAM:**  
**HON'BLE MR. JUSTICE SANJEEV NARULA**

**ORDER**  
**04.11.2024**

%

1. The Petitioner, Delhi Pollution Control Committee,<sup>1</sup> Department of Environment (Government of NCT of Delhi), has preferred the present writ petition assailing order dated 21<sup>st</sup> September, 2016<sup>2</sup> in CIC/SA/C/2016/000113 & CIC/SA/C/2016/000114 passed by the Central Information Commission.<sup>3</sup> Through the said order, the CIC has imposed a penalty of INR 1000/- each on the erstwhile as well as the incumbent State Public Information Officers<sup>4</sup> of the Petitioner.

2. The factual background leading to the filing of the present petition is as follows:

2.1 The Respondent, Mr. Anil Sood, filed an RTI application on 13<sup>th</sup>

---

<sup>1</sup> "DPCC"

<sup>2</sup> "impugned order"

<sup>3</sup> "CIC"

<sup>4</sup> "SPIOs"



January, 2016 seeking information pertaining to certified copies of documents, such as the location plan, reports and approach map, submitted by Hindustan Construction Company Limited, along with application for environmental clearance for setting up a concrete mixing plant at Nelson Mandela Road, Vasant Kunj for Munirka elevated corridor.

2.2 The said application was disposed of by the erstwhile SPIO of the Petitioner, Dr. Chandra Prakash, on 28<sup>th</sup> January, 2016 with the observation, “*no such data/ details available in EIA Cell, DPCC*”.

2.3 Aggrieved, the Respondent preferred first appeal dated 17<sup>th</sup> February, 2016, which was disposed of by the First Appellate Authority through order dated 16<sup>th</sup> March, 2016. The Respondent, thereafter, filed complaint-cum-second appeal before the CIC under Sections 18 and 19 of the Right to Information Act, 2005.<sup>5</sup> The CIC, after hearing the parties, issued the following directions through order dated 20<sup>th</sup> July, 2016:

*“3. The environmental clearance is not granted by DPCC but by the State Environment Impact Assessment Authority. The DPCC acts as a Secretariat for this authority. PIO, Ms. Ajita Dayal Agrawal is not present. Mr. Pankaj Kapil, Sr. Environmental Engineer represented the PIO. He says the information does not pertain to EIA Cell. The Commission finds the approach of PIO is absolutely wrong. She has denied the information to the appellant though they have entire information with them. The appellant has proved by obtaining a copy of receipt of DPCC, which contains details about Hindustan Construction Corporation at Nelson Mandela Road for Munirka Elevated Corridor project. The representative does not have enough understanding and preparation about RTI, that PIO will represent entire authority, not just one cell. Because of this fragmented approach, the appellant could not get the information sought. His complaint sustains.*

*4. The Commission directs Mr. Chandra Prakash, the then SPIO and Ms. Ajita Dayal Agrawal, the present SPIO to show cause why maximum penalty should not be imposed against each of them for this kind of unreasonable denial of information, within 21 days from*

---

<sup>5</sup> “RTI Act”



*the date of receipt of this order. It is pathetic to note that FAA has also not looked into the information request properly and simply confirmed the denial of SPIO, considering it as supply of information without application of mind. The Commission directs the SPIO to provide the point wise information along with necessary certified copies free of cost, within 15 days from today. Case is posted for compliance on 16-8-2016 at 2.30 pm.”*

2.4 Subsequently, through final order dated 21<sup>st</sup> September, 2016, the CIC made the following analysis, imposing penalties on the SPIOs of the Petitioner:

*“4. In response to show-cause notice Dr. Chandra Prakash sought personal hearing which was given. He claimed that RTI application was forwarded by him in his capacity as SPIO to the cell dealing with Environmental Clearance. The concerned cell informed that no such data/ information was available and the same was communicated to the applicant. In fact, the information required by the appellant was submitted along with the application for consent to operate under Water/Air Act. Dr. Chandra Prakash stated that there was a confusion, because the applicant specifically asked about the documents of “Environmental Clearance” given to Hindustan Construction Company by DPCC. If the appellant had used the express consent to operate, then they could have given information sought.*

*5. The appellant contended that he has specifically asked for the copy of “Environmental Clearance” submitted by Hindustan Construction Company for setting up of a concrete mix plant/stone girding at Nelson Mandela Road, Vasant Kunj, for Munirka Elevated Corridor Project.*

*6. The appellant sought copy of Environmental Clearance submitted by the Hindustan Construction Company for setting up of a concrete-mix plant/stone girding at Nelson Mandela Road, Vasant Kunj, for Munirka Elevated Corridor Project. The appellant stated that the information sought was about establishment of RMC Plant. He said that the statement given by the PIO: ‘No such record exists’- is a clear denial of information with ulterior motive and malafide intention. The appellant further stated that he had perused the application and the inspection report provided to him was inconsistent on following points:*

- (i) Effluent Discharge - Domestic - when the industry is set up in the Non Industrial Area;*
- (ii) Water purchased from outside is 14,600 Ltrs App per day, without mentioning whether the supplier is licensed by Delhi Jal Board to extract ground water;*
- (iii) Though premises are on rent, the Occupier is also the owner of the Plot - middle verge - of PWD Road;*



(iv) *The Project report states that the product's 'waste water', and is to be discharged in the sewer.*

(v) *Even as per drawing of sedimentation tank, there is an outlet for water discharge, whereas there is no sewer connection in the middle verge and the road has not been cut to lay pipe line to discharge water.*

*7. He stated that the DPCC is under obligation by virtue of section 4(2) of the RTI Act to publish on its website with regular update the consents to establish arid consent to operate suo moto. However, the information available on the website is not updated and is only up to July 2002. He stated that the defence of "confusion" has been created to cause that confusion to protect himself from the penalty imposable under the Act for violating the provisions of the Act.*

*8. Dr. C. Prakash, SEE and Ms. Ajeeta Dayal Agrawal contended that, in fact, the consent for operation was given to Hindustan Construction Company and there was no environment clearance, because of this confusion they could not give information on time. Appellant raised strong objection as to why clarification was not sought from him.*

*Decision:*

*9. The Commission finds that applicant gave specific name of industry to which clearance is granted, whether it is called "Environmental Clearance" or "Consent to Operate". Neither the then SPIO, Dr. Chandra Prakash nor the cell of Environmental Clearance applied their mind to the contents of RTI application. The SPIO had dealt with the RTI application like ordinary file and acted as Post Office where he simply forwarded his denial to the applicant, which is totally illegal. The RTI Act endows discretion upon SPIO to coordinate with the other officers and see that the complete information is furnished to the applicant. The Officers working in the DPCC are expected to know that the applicant is asking for the documents concerning Environmental Clearance. Although going by the meaning of the word giving consent for operation is also a kind of clearance, but does not appropriate on the part of the SPIO to deny the information.*

*10. During the personal hearing, the former SPIO, Dr. Chandra Prakash has tried to blame the appellant for not using specific technical expression which resulted in denial of information. The Commission holds that this is not proper statutory duty of Dr. Chandra Prakash. He is supposed to render specific reason to the applicant, a common man. Though he is an advocate, the SPIO cannot expect him to know the exact technical expression used in the office of the DPCC and officers of the DPCC including the SPIO are expected to understand the purport of the RTI application. Therefore, the explanation of Dr. Chandra Prakash is not at all satisfactory. He could not justify his denial for providing the information under the provision of RTI Act. His so called confusion cannot be the ground. Hence, the Commission imposes a fine of Rs. 1,000/- as penalty upon Dr. Chandra Prakash,*



*SEE for negligence and denial of information to the appellant.*

*11. The present SPIO, Ms. Ajeeta Dayal Agrawal, SEE in her explanation reiterated the answer of Dr. Chandra Prakash. She stated that the deemed SPIO who attended the hearing on 20.07.2016 in place of the SPIO could not present the case before the Commission in the true line which resulted in the Commission passing direction of show-cause notice. She assured that necessary steps are being taken now to provide information free of cost.*

*12. The Commission finds that even present SPIO did not supply information. Even after receiving hearing notice from CIC, the present SPIO, Ms. Ajeeta Dayal Agrawal did not take any initiative to provide the information. She carried on the same mind set of the earlier SPIO. This is not expected on the part of a Senior Environmental Engineer who is working as SPIO in DPCC.*

*13. It is most unfortunate that past and present SPIOs did not do anything to provide information, but tried to create non-existing confusion, which is nothing but their negligence to deny the information. The Commission holds that present SPIO also liable for imposing penalty of Rs. 1,000/-. Hence, the Commission imposes penalty of Rs. 1,000/- upon Ms. Ajeeta Dayal Agrawal, SEE for negligence and denial of information to the appellant.*

*14. The Appellate Authority is directed to recover the amount of Rs. 1,000/- each from the salary payable to Dr. Chandra Prakash, SEE and Ms. Ajeeta Dayal Agrawal, SEE and forward the same to this Commission, in the way of Demand Draft drawn in favour of 'PAO CAT' New Delhi latest by **31.10.2016**. The Demand Drafts should be sent to **Shri S. P. Beck, Joint Secretary & Addl. Registrar, Room No. 302, Central Information Commission, B-Wing, 2nd Floor, August Kranti Bhawan, Bhikaji Cama Place, New Delhi 110066**.*

*15. The Commission directs SPIOs of respondent authority not to deal with the RTI applications like this, but apply their minds and develop humanity/ human concern to provide information than relying on meaningless technical interpretation of word used by them on the appellant; and provide all certified copies of documents sought by the appellant, within 15 days from the date of receipt of this order."*

3. A perusal of the aforesaid orders makes it abundantly clear there is no dispute regarding the Petitioners' compliance with the orders. The SPIOs indeed provided the information along with certified copies to the Respondent on 5<sup>th</sup> August, 2016, a fact duly acknowledged by the Respondent in his written submissions.



4. The Petitioners' grievance is now limited to the imposition of penalties on its SPIOs. Ms. Tanisha Samanta, counsel for the Petitioners, points out that there was no deliberate or wilful neglect on part of the Petitioners in not providing the information sought by the Respondent. To support this contention, she explains that the RTI application, as worded, sought information specifically with respect to application for "environmental clearance", and not "consent to operate". The then SPIO, Dr. Chandra Prakash, from the EIA Cell, *i.e.*, the cell that coordinates and oversees the work of environmental clearance, received the Respondent's RTI Application. Owing to the wording of the application, the SPIO understood that the RTI application pertained to information related to environmental clearance, for which no data or details were available with the cell. In such circumstances, the SPIO's response was in consonance with the information sought in the RTI application and the absence of the corresponding data for disclosure.

5. Ms. Samanta further explains that in the second appeal filed before the CIC, the Respondent attached a copy of a receipt showing that Hindustan Construction Co. Ltd. had filed a common application for consent before the DPCC on 12<sup>th</sup> March, 2015. While the CIC relied upon the said document while passing the impugned order, they failed to take into account that the said document pertained to supply of information pertaining to application for consent, and not environmental clearance. On this issue, counsel emphasised that environmental clearance is obtained under the Environment (Protection) Act, 1986, whereas consent to operate is issued under the Air (Prevention and Control of Pollution) Act, 1981 and the Water (Prevention and Control of Pollution Act), 1974.



6. In the opinion of the Court, the contentions urged by the Petitioner have merit. The RTI application, as worded by the Respondent, does not clarify that the information sought pertains to “consent to operate”. Moreover, it must be noted that the impugned order, in Paragraph No. 5, categorically records that the Respondent had specifically asked for a copy of the “environmental clearance” submitted by Hindustan Construction Company. Accordingly, since the Respondent, in the RTI application, had sought information with respect to “environmental clearance”, rather than “consent to operate”, the Petitioner’s response adequately addressed the request, and therefore, the same cannot be said to be erroneous.

7. In view of the above, in the opinion of the Court, the conclusion drawn by the CIC that the information provided by Dr. Chandra Prakash was not satisfactory, cannot sustain. Therefore, the imposition of penalty on the erstwhile as well as present SIPOs on account of alleged negligence in providing information to the Respondent is untenable.

8. In light of the above, the present writ petition is allowed. The penalty imposed by the CIC on Dr. Chandra Prakash, SEE and Ms. Ajeeta Dayal, SEE through the impugned order is accordingly, set aside.

9. With the above direction, the present writ petition is disposed of along with pending application.

**SANJEEV NARULA, J**

**NOVEMBER 4, 2024/ab**