

केंद्रीय सूचना आयोग
CENTRAL INFORMATION COMMISSION
बाबा गंगनाथ मार्ग
Baba Gangnath Marg
मुनिरका, नई दिल्ली – 110067
Munirka, New Delhi-110067

File no.: - CIC/PVFRA/A/2019/103951

In the matter of:

Y Bixapathy

... Appellant

VS

CPIO / Registrar,
Protection of Plant Varieties & Farmers Rights Authority,
NASC Complex DPS Marg OPP. Todarpur,
New Delhi 110012

... Respondent

RTI application filed on	:	05/09/2018
CPIO replied on	:	22/10/2018
First appeal filed on	:	08/11/2018
First Appellate Authority order	:	20/11/2018
Second Appeal dated	:	18/01/2019
Date of Hearing	:	08/10/2020
Date of Decision	:	08/10/2020

The following were present:

Appellant: Not present

Respondent: Shri U K Dubay, Deputy Registrar & CPIO, present over intra VC.

Information Sought:

The appellant had sought a copy of the legal opinion given by Mr. Tushar Mehta, Addl. Solicitor General, in the matter of obtaining of "No Objection Certificate" (NOC) from the technology provider for registration of plant varieties.

Grounds for Second Appeal

The CPIO has not provided the desired information claiming exemption under Section 8(1) (e) of the RTI Act.

Submissions made by Appellant and Respondent during Hearing:

The CIC hearing notice sent to the appellant vide speed post tracking no. ED488257923IN was returned undelivered with the remarks “addressee left without instructions”. Also, the notice of hearing could not be sent through e-mail nor could he be contacted in any other manner as the appellant had failed to give any email address or contact number in his RTI application or in the related documents. Under such circumstances, the Commission has decided the case ex-parte on the basis of the documents filed by the appellant. In his second appeal he had submitted that he is not satisfied with the reply of the CPIO as the desired information was denied to him while claiming exemption under the RTI Act. He further submitted that he had drawn the attention of the CPIO to an earlier letter bearing No. PPV&FRA/30- 4/7/RTI/1066 dated 21.06.2017 of the then CPIO, wherein while referring to the directions of the First Appellate Authority, PPV&FR Authority, given to him vide PPV&FRA/RG/37/Appeals/2017/319A dated 13.06.2017, the CPIO had informed that the same was being uploaded on the website of the Authority at www.plantauthority.gov.in and that Applicant can download the information. As more than a year had lapsed and the said legal opinion of Shri Tushar Mehta, the then Additional Solicitor General of India had been neither uploaded on the PPV&FR Authority website nor provided to him, therefore, he was constrained to send a fresh application seeking the above document under the provisions of the RTI Act, 2005.

The CPIO submitted that an appropriate reply was given to the appellant on 22.10.2018 and this reply was further elaborated by the FAA in his order dated 20.11.2018.

Observations:

From a perusal of the relevant case records, it is noted that the appellant is aggrieved as the desired information was not provided to him. In his second appeal memo, he had mentioned that even though it was mentioned by another CPIO that the same information was being uploaded on the website of the Authority at www.plantauthority.gov.in, however, till date the same has

not been done. The Commission is in agreement with the submissions of the appellant as he had placed on record a letter dated 21.06.2017 which apparently is a CPIO's reply in connection with some other RTI application wherein the same information was sought by the appellant. It was stated by the CPIO, Shri Ravi Prakash that as per the direction of the Appellate Authority vide order No. PPV&FRA/RG/32/Appeals/2017/319A dated 13.06.2017 that the legal opinion regarding the NOC sought from Shri Tushar Mehta, Additional Solicitor General of India, which has been approved in the 27th meeting held on 31.05.2017 was being uploaded on the website of the Authority at www.plantauthority.gov.in. The Applicant can download the information. On the other hand, the CPIO and the FAA in response to the present RTI application have claimed exemption u/s 8(1)(e) of the RTI Act.

During the hearing, the CPIO explained that in compliance with the FAA Order dated 13.06.2017, the decision which was taken based on the legal opinion given by Mr. Tushar Mehta, Addl. Solicitor General was uploaded on their website. He further informed that the same issue regarding the legal opinion of ASG is pending adjudication before the A.P and Telangana High Court but the same has been filed by a different petitioner. With regard to the subject matter of the RTI application, he maintained his earlier stand and submitted that the information is exempted u/s 8(1)(e) of the RTI Act. The Commission finds the reply of the CPIO claiming exemption u/s 8(1)(e) of the RTI Act appropriate and in view of the fact that the same issue is pending adjudication in the High Court of A.P. and Telangana, no further action is warranted in the matter.

Decision:

In view of the above, the Commission upholds the submissions of the CPIO and does not find any scope for further intervention in the matter.

The appeal is disposed of accordingly.

Vanaja N. Sarna (वनजा एन. सरना)

Information Commissioner (सूचना आयुक्त)

Authenticated true copy

(अभिप्रमाणित सत्यापित प्रति)

A.K. Assija (ऐ.के. असीजा)

Dy. Registrar (उप-पंजीयक)

011- 26182594 /

दिनांक / Date

