

Mr. BND Bhowmick
The FAA – Executive Director
Corporate Centre,
Power Grid Corporation of India Limited (PGCIL),
Saudamini, Plot No. 2,
Sector-29,
Gurgaon - 122001

Subject - 1st Appeal u/s 19(1) of the RTI Act,2005 (Letter ref.no. PGCIL L/R/20/M-12,dated the 16 th of September,2020, signed by Jasbir Singh)

Dear Sir,

1.Context

1.1.This is the 1st Appeal u/s 19(1) of the RTI Act,2005, w.r.t **ABSOLUTE ,ILLEGAL AND COMPLETE REJECTION BY THE PIO-PGCIL , W.R.T. 1 RTI APPLICATION, STATED AS UNDER:**

- **Letter ref.no. PGCIL L/R/20/M-12,dated the 16 th of September,2020,signed by Jasbir Singh**
- **The PIO has stated that the information sought is VOLUMINOUS and so has rejected the entire RTI Application**
- The PIO claims that the data sought is maintained on a decentralized mode,across various operating centres,in India

1.2.The PIO has rejected all the information sought on the following grounds :

- **The PIO has quoted Section 7(9) of the RTI Act ,TO REJECT THE ENTIRE RTI APPLICATION**
- HOWEVER THE PIO ALSO CLAIMS THAT IF ANY SPECIFIC INFORMATION WAS SOUGHT FOR ANY SPECIFIC PERIOD THE PIO WOULD PROVIDE THE SAME
- THE PIO **DID NOT CLAIM THAT THE INFORMATION IS NOT READILY AVAILABLE**

1.3.The information sought by the Applicant is as under:

Para 4.1. of the RTI Application - The Following information is sought from the PIO,by the RTI Applicant

4.1. The Following information is sought from the PIO, by the RTI Applicant

Frauds

- **PIO to provide the number and aggregate value of frauds inflicted on PGCIL from FY 2011 to FY 2020,as under:**
 - Year,Number,Aggregate Fraud Value
- **PIO to provide the nature of frauds inflicted on PGCIL from FY 2011 to FY 2020,as under:**
 - Year , Name of Person/Entity involved,Nature of Fraud (Accounting,Purchase, Tenders, Contracts,Projects etc.)

Security Expenses (Rs 1000 crores in the last 6 years)

- PIO to provide the details of the security expense from FY 2015 to FY 2019 , as under:
 - Year,Nature of expense (CISF etc.,contractors,surveillance,alarm systems,electronic security,cyber security,IT Security,Transmission Security,maintenance of security assets, cost of military deployments etc.)
- PIO to provide the details of the capital expenditure on security from FY 2015 to FY 2019,as under:
 - Year,Amount,Nature of asset,Name of Vendor
- PIO to provide the number of security breaches for PGCIL in the last 7 years from FY 2013 to FY 2019
 - Year,Number of breaches,Location of breach
- PIO to provide the number of security alerts for PGCIL in the last 7 years from FY 2013 to FY 2019
 - Year,Number of alerts,Location of alerts

Insurance Costs

- PIO to provide the details of the insurance expenses as stated in the Annual Reports from FY 2015 to FY 2019,as under:
 - Year,Nature of Insurance Policy,Co-terminus Insurance premium paid,Name of Insurance Company
- PIO to provide the details of the Insurance claims received by PGCIL in the last 5 years from FY 2015 to FY 2019,as under:
 - Year,Nature of Claim (Material Damage,Asset Loss,Fire,Business Interruption loss etc.),Amount of Claim received,Name of insurer who made the claim payment
- PIO to provide the details of the Losses out of Insurance claims (claims not recoverable) suffered by PGCIL in the last 5 years from FY 2015 to FY 2019,as under:
 - Year,Nature of Loss (Fire,Loss of Assets,Material Damage,Business Interruption loss etc.),Amount of Claim loss,Name of insurer
- PIO to specify the assets and risks for which PGCIL has no insurance policy cover and the PGCIL is using the Self Insurance Reserve
- PIO to specify the losses,which PGCIL has recovered from the Self Insurance Reserve from FY 2012 to FY 2019,as under:
 - Year,Nature of Loss, Amount of loss recovered from the Self Insurance Reserve

Donations

- PIO to provide the details of the Donations made by PGCIL in the last 10 years from FY 2010 to FY 2019,as under:
 - Year ,Nature of Recipient,Whether Approved by the Board,Alternative approval authority

Income

- PIO to provide the details of the Income from Consultancy Services from FY 2014 to FY 2019,as under:
 - Year,Name of Client,Nature of Consultancy Services
- PIO to provide the details of the Income from Telecom Services from FY 2014 to FY 2019,as under:
 - Year,Name of Client,Nature of Telecom Services
- PIO to provide the details of the Miscellaneous income from FY 2014 to FY 2019,as under:
 - Year,Name of Client,Nature of Miscellaneous Income

FX Expenditure

- PIO to provide details of the Expenditure in Foreign Currency,w.r.t the Others,from FY 2015 to FY 2019,as under:
 - Year,Nature of expense (in excess of Rs 1 crores)
 - Year,Name of Recipient of payment from PGCIL (in excess of Rs 1 crores)
- PIO to provide the details of the Capital Goods imports from FY 2014 to FY 2019
 - Year,Country of Imports,Value of Imports in INR and Fx denominated Currency
- PIO to provide the details of the Fx payment of interest made by PGCIL from FY 2014 to FY 2019,as under:
 - Year,Interest Paid in different currencies ,Recipient Bankers of the interest payments

Fx Revenue

- W.r.t the consultancy charges received by PGCIL , in FX from FY 2014 to FY 2019,the PIO is to provide the following information :
 - Year,Amount,Name of entity which paid the fees to PGCIL ,Nature of Consultancy and TOR of Consultancy

FX

- PIO to provide the Realised FX LOSSES/GAINS (excluding translation losses) booked in the accounts of PFC,for the last 5 years from FY 2015 to FY 2019
 - Year,Gross Realised Losses for Capital Goods Imports,Losses related to USD/EUR/JPY (each currency separately)
 - Year,Gross Realised Gains for Capital Goods Imports,Gains related to USD/EUR/JPY (each currency separately)
 - Year,Gross Realised Losses for FX interest Payments,Losses related to USD/EUR/JPY (each currency separately)
 - Year,Gross Realised Gains for FX interest Payments,Gains related to USD/EUR/JPY (each currency separately)
 - Year,Gross Realised Losses for FX Loan Payments,Losses related to USD/EUR/JPY (each currency separately)
 - Year,Gross Realised Gains for FX Loan Payments,Gains related to USD/EUR/JPY (each currency separately)
 - Aggregate value of forward covers purchased for underlying transactions in FY 2019

- Identifying the value of the underlying transactions of Capital Goods Imports, Loan and Interest Payments
- Aggregate value of forward covers sold for underlying or trade transactions in FY 2019
- Aggregate value of FX options purchased (as standalone or composite - cap/collar options etc.) in FY 2019
- Aggregate value of FX options sold (as standalone or composite - cap/collar options etc.) in FY 2019

Contingent Liability

- W.r.t the contingent liabilities due to non-govtt parties,as at March 31,2019,PIO to provide the following details (in excess of Rs 20 crores per entity)
 - Name of Entity,Amount of Contingent liability and Nature of Contingent liability

Accounts

- W.r.t the consultancy charges from FY 2014 to FY 2019,the PIO is to provide the following information :
 - Year, Amount, Name of entity to whom paid, Nature of Consultancy and TOR of Consultancy
- W.r.t the professional charges paid from FY 2014 to FY 2019,the PIO is to provide the following information :
 - Year, Amount, Name of entity to whom paid, Nature of Professional service and TOR of Professional services
- W.r.t the Miscellaneous expenses paid from FY 2014 to FY 2019,the PIO is to provide the following information :
 - Year, Amount, Name of entity to whom paid, Nature of Miscellaneous expenses
- W.r.t the "Provisions allowable on payment basis", from FY 2014 to FY 2019,the PIO is to provide the following information :
 - Year, Amount, Nature of the Provisions allowable on payment basis

Audits

- PIO to confirm if CAG has ever done a performance audit of PGCIL in the last 7 years
 - If Yes,the year of the audit and the year to which it related
- PIO to confirm if CAG has ever done a performance or propriety or efficiency audit of the Capital Work in Progress of PGCIL in the last 10 years
 - If Yes,the year of the audit and the year to which it related
- PIO to confirm if PGCIL has ever done or directed a performance audit of the CSR activities of PGCIL , in the last 7 years
 - If Yes,the year of the audit and the year to which it related,name of agency which did the audit and scope of work of the audit
- PIO to confirm if PGCIL has ever done or directed a Security audit of the PGCIL , in the last 10 years
 - If Yes,the year of the audit and the year to which it related,name of agency which did the audit and scope of work of the audit
- PIO to confirm if the Ministry of Power or the MHA or any other agency has ever done or directed a Security audit of the PGCIL , in the last 10 years
 - If Yes,the year of the audit and the year to which it related,name of agency which did the audit and scope of work of the audit

CSR

- PIO to confirm that it has the Annual Report and Annual Accounts of the ENTITIES (excluding state owned entities) through whom the CSR activities of PGCIL are carried out (for the last 5 years)
- PIO to confirm that it has the Statutory and Internal Audit Reports of the ENTITIES (excluding state owned entities) through whom the CSR activities of PGCIL are carried out (for the last 5 years)
- PIO to confirm that it has the Performance and Management Audit Reports of the ENTITIES (excluding state owned entities) through whom the CSR activities of PGCIL are carried out (for the last 5 years)

Litigations

- PIO to provide the list of ongoing litigations of PGCIL ,as of March 31,2019,against or involving Private Sector entities,as under
 - Case No.,Name of Court,Name of entities,Year of Initiation
- PIO to provide the list of concluded litigations of PGCIL ,in the 3 years upto March 31,2019,against or involving Private Sector ,as under
 - Case No.,Name of Court,Name of entities,Year of Initiation,Year of Conclusion
- PIO to provide the aggregate legal costs incurred by PGCIL on litigations in the last 8 years from FY 2012 to FY 2019, as under:
 - Year,Amount of aggregate legal costs,Amount of legal fees paid to private lawyers, Amount of legal fees paid to government lawyers
- PIO to provide the details of the arbitration awards won by PGCIL in the last 8 years from FY 2012 to FY 2019, which were challenged by the counterparty,as under:
 - Year, Amount of arbitration awards won,Amount of such awards challenged in the same of later years

- PIO to provide the list of arbitration awards won by PGCIL which were challenged by the counterparty in the last 5 years (in excess of Rs 100 crores each)
 - Year of Arbitration award, Name of Counterparty, Year of Challenge, Amount of original award (irrespective of the nature and extent of the challenge)

Provisions and Bad Debts

- W.r.t the Provisions made for Doubtful debts and advances from FY 2014 to FY 2019, the PIO is to provide the following information :
 - Year, Amount, Name of entity, Nature of Debt
- W.r.t the Bad Debts written off from FY 2014 to FY 2019, the PIO is to provide the following information :
 - Year, Amount, Name of entity, Nature of Debt

Advances

- PIO to provide the details of the "ADVANCES SECURED BY BANK GUARANTEES" given by PGCIL, o/s as at March 31, 2019, as under:
 - Name of recipient (only those in the private sector), Amount, Year of Advance, Purpose of Advance, Rate of interest on the advance (for all advances in excess of Rs 5 crores)
 - Aggregate value of recipients in the Government sector
 - Total Number of Recipients of the abovesaid advances
 - PIO to provide the names of entities, in which there has been NO REDUCTION in o/s amount of advance, SINCE THE DATE OF ADVANCE
- PIO to provide the details of the "ADVANCES not secured by Bank Guarantee " given by PGCIL, o/s as at March 31, 2019, as under
 - Name of recipient (only those in the private sector), Amount, Year of Advance, Purpose of Advance, Rate of interest on the advance (for all advances in excess of Rs 5 crores)
 - Aggregate value of recipients in the Government sector
 - Total Number of Recipients of the abovesaid advances
 - PIO to provide the names of entities, in which there has been NO REDUCTION in o/s amount of advance, SINCE THE DATE OF ADVANCE
- PIO to confirm that the abovesaid advances are interest free (As that would amount to a private entity using the Balance sheet of PGCIL to raise Zero cost funds for a project)
 - If Yes, the PIO to identify the interest free advances on Bank Guarantees as at March 31, 2019 as under :
 - Name of Vendor, Amount, Year of making the Advance
 - If Yes, the PIO to identify the interest free advances, w/o any security, as at March 31, 2019 as under :
 - Name of Vendor, Amount, Year of making the Advance

Confirmations

- W.r.t the confirmation of material / assets issued/lying with. to contractors, claims recoverable including insurance claims, advances for Capital expenditure, Sundry Debtors, Advances to Contractors, Sundry Creditors and Deposits/Earnest money from contractors of an amount less than Rs 5 lacs, the PIO to state when the last confirmation of the said balances was done by the PGCIL, as under:
 - Year of last confirmation, Number of such entities, Number of entities from whom confirmation sought, % of confirmation, % of no response, % of disputed confirmation
- W.r.t the confirmation of material / assets issued/lying with/ to contractors, claims recoverable including insurance claims, advances for Capital expenditure, Sundry Debtors, Advances to Contractors, Sundry Creditors and Deposits/Earnest money from contractors (each separately) of less than Rs 5 lacs each
 - From whom NO CONFIRMATION HAS BEEN OBTAINED IN THE LAST 7 YEARS
 - From whom DISPUTED CONFIRMATION HAS BEEN OBTAINED IN THE LAST 7 YEARS
- PIO to provide the value of the material / assets issued/lying with/ to contractors, claims recoverable including insurance claims, advances for Capital expenditure, Sundry Debtors, Advances to Contractors, Sundry Creditors and Deposits/Earnest money from contractors (each separately) of MORE than Rs 5 lacs each
 - From whom NO CONFIRMATION HAS BEEN OBTAINED IN THE LAST 7 YEARS
 - From whom DISPUTED CONFIRMATION HAS BEEN OBTAINED IN THE LAST 7 YEARS
- PIO to provide the value of the material / assets issued/lying with/ to contractors, claims recoverable including insurance claims, advances for Capital expenditure, Sundry Debtors, Advances to Contractors, Sundry Creditors and Deposits/Earnest money from contractors (each separately) of MORE than Rs 5 lacs each
 - FOR whom NO REQUEST FOR CONFIRMATION OF BALANCES HAS BEEN SENT IN THE LAST 5 YEARS
- PIO to provide the value of the material / assets issued/lying with/ to contractors, claims recoverable including insurance claims, advances for Capital expenditure, Sundry Debtors, Advances to Contractors, Sundry Creditors and Deposits/Earnest money from contractors (each separately) of LESS than Rs 5 lacs each
 - FOR whom NO REQUEST FOR CONFIRMATION OF BALANCES HAS BEEN SENT IN THE LAST 5 YEARS

- PIO to provide the value of material / assets issued/lying with/ to contractors, claims recoverable including insurance claims, advances for Capital expenditure, Sundry Debtors, Advances to Contractors, Sundry Creditors and Deposits/Earnest money from contractors for which NO BALANCES CONFIRMATION EXERCISE WAS UNDERTAKEN IN FY 2019
- PIO to provide the value of material / assets issued/lying with/ to contractors, claims recoverable including insurance claims, advances for Capital expenditure, Sundry Debtors, Advances to Contractors, Sundry Creditors and Deposits/Earnest money from contractors for which NO BALANCES CONFIRMATION EXERCISE WAS UNDERTAKEN IN FY 2018
- PIO to provide the value of material / assets issued/lying with/ to contractors, claims recoverable including insurance claims, advances for Capital expenditure, Sundry Debtors, Advances to Contractors, Sundry Creditors and Deposits/Earnest money from contractors for which NO BALANCES CONFIRMATION EXERCISE WAS UNDERTAKEN IN FY 2017
- PIO to provide the value of material / assets issued/lying with/ to contractors, claims recoverable including insurance claims, advances for Capital expenditure, Sundry Debtors, Advances to Contractors, Sundry Creditors and Deposits/Earnest money from contractors for which NO BALANCES CONFIRMATION EXERCISE WAS UNDERTAKEN IN FY 2016

Ageing

- PIO to provide the ageing of the Capital Work in Progress (excluding those written off),as of March 31,2020,as under:
 - More Than 5 years
 - More Than 4 years and upto 5 years
 - More Than 3 years and upto 4 years
 - More Than 2 years and upto 3 years
- Within each of the above ageing slabs of the CWIP,the PIO to provide the value of the CWIP on which there has been no Capital Works activity, for more than 1 year, more than 2 years, more than 3 years and more than 4 years
- PIO to provide ageing of the receivables of PGCIL , as of March 31,2020,as under:
 - More Than 5 years
 - More Than 4 years and upto 5 years
 - More Than 3 years and upto 4 years
 - More Than 2 years and upto 3 years
 - More Than 1 year and upto 2 years
 - More than 1 year
- PIO to provide the names of all private sector entities included in the receivables of PGCIL as of March 31,2020,as under:
 - More Than 5 years (Name of entity and value)
 - More Than 4 years and upto 5 years (Name of entity and value)
 - More Than 3 years and upto 4 years (Name of entity and value)
 - More Than 2 years and upto 3 years (Name of entity and value)
 - More Than 1 year and upto 2 years (Name of entity and value)
 - More than 1 year (Name of entity and value)
- PIO to provide ageing of the stores and spares of PGCIL as of March 31,2020,as under:
 - More Than 5 years
 - More Than 4 years and upto 5 years
 - More Than 3 years and upto 4 years
 - More Than 2 years and upto 3 years

1.4.The Context of the information sought from the PGCIL is as under:

1.4.1..The Context of the information sought from the PGCIL , is the following types of information,as under

- **11 Information Headings related to Audit and Accounts (Audits,Accounts, Frauds, Security Expenses,Insurance Costs,Donations,Income,Provisions and Bad Debts,Advances,Confirmations,Ageing)**
- **3 Information Headings related to Risk (Frauds and Fx)**
- **5 Information Headings related to Consolidated Financial Statements Reporting (FX Expenditure ,Fx Revenue,Contingent Liability,CSR,Litigations)**

1.4.2.The above read with Para 1.3 shows that the information sought was neither vague nor ambiguous and was specific

1.4.3. The above read with Para 1.3 above shows that the INFORMATION SOUGHT IS ON 5 SPECIFIC PARAMETERS AND SPECIFIC PERIODS

1.5.Information sought in Paramount Public Interest

1.5.1.The Information sought by the RTI Applicant is of "vital importance" and in Public Interest and should be in the public domain (as stated in Para 8.2.5 of this 1st Appeal)

2.Outline of Illegality

2.1.The Outline of Illegality in the Letter of the PIO, is summarized below:

Ground of PIO – No.1

- **The PIO has quoted Section 7(9) of the RTI Act ,TO REJECT THE ENTIRE RTI APPLICATION**

Illegality – No.1

- **THE PIO HAS LIED ,AS ALL THE DATA IS AVAILABLE WITH THE ACCOUNTS AND AUDIT CELL OF THE PGCIL WHICH PREPARES THE CONSOLIDATED ANNUAL ACCOUNTS AND ANNUAL REPORTS OF PGCIL**
 - **HENCE ,THERE CAN BE NO DISPROPORTIONATE DIVERSION OF RESOURCES**
 - **THE INFORMATION HAS TO BE READILY AVAILABLE AS W/O THIS DATA AND ITS ANALYSIS,THE MANAGEMENT OF PGCIL WOULD BE CRIMINALLY REMISS,W.R.T. ITS MANAGEMENT AND STRATEGIC OVERSIGHT**
 - **IF THE MANAGEMENT IS INDEED REMISS,THEN THE MATTER IS IN PARAMOUNT NATIONAL AND PUBLIC INTEREST ,AND THAT IS THE "BENEFIT OF THE INFORMATION SOUGHT"**
- **THE PIO HAS NOT MADE A REPLY TO A SINGLE INFORMATION REQUIREMENT**
- **AS PER THE KERALA HIGH COURT – SECTION 7(9) IS NO GROUND TO REJECT INFORMATION**
- **AS PER THE DELHI HIGH COURT – EVEN LOSS OF INFORMATION, BY A PUBLIC AUTHORITY, IS NO REASON TO REFUSE DATA**
- **AN INFORMATION SOUGHT FOR A RTI APPLICATION CAN ONLY BE REJECTED U/S 8,9 AND 24 OF THE RTI ACT**

Ground of PIO – No.2

- **The PIO CLAIMS THAT THE APPLICANT HAS SOUGHT DATA WHICH IS SPREAD ACROSS THE LENGTH AND BREADTH OF INDIA**

Illegality – No.2

- **THE PIO HAS LIED ,AS ALL THE DATA IS AVAILABLE WITH THE ACCOUNTS AND AUDIT CELL OF THE PGCIL WHICH PREPARES THE CONSOLIDATED ANNUAL ACCOUNTS AND ANNUAL REPORTS OF PGCIL**
 - **THE INFORMATION MIGHT RELATE TO THE LENGTH AND BREADTH OF INDIA – BUT IT HAS TO BE AVAILABLE WITH THE CENTRALISED AUDIT ACCOUNTING AND REPORTING SECTION OF PGC – AS W/O IT THE ANNUAL REPORT CANNOT BE PREPARED**
 - **A COMPANY LIKE PGCIL CANNOT OPERATE W/O AN ERP – AND ALL THE INFORMATION IS AVAILABLE IN THE ERP OF PGCIL AT THE CLICK OF A BUTTON**
 - **A COMPANY LIKE PGCIL CANNOT OPERATE W/O THE DATA SOUGHT AT THE HQ LEVEL AS IT IS REQUIRED FOR DECISION MAKING AND STRATEGY AND COST REDUCTION**

Ground of PIO – No.3

- **The PIO CLAIMS THAT THE INFORMATION SOUGHT IS VOLUMINOUS**

Illegality – No.3

- **THE PIO HAS LIED ,AS A COMPANY LIKE PGCIL CANNOT OPERATE W/O AN ERP – AND ALL THE INFORMATION IS AVAILABLE IN THE ERP OF PGCIL AT THE CLICK OF A BUTTON**
 - **THE CONCEPT OF VOLUMINOUS DATA IS MEANINGLESS FOR E-DATA,AND ESPECIALLY THE ACCOUNTS AND RISK AND REPORTAGE DATA - AS THAT IS SUBJECT TO CONCURRENT,INTERNAL AND STATUTORY AUDITS – WHICH ARE DONE BY THE AUDITOR, ELECTRONICALLY AND OFFLINE**

Ground of PIO – No.4

- **The PIO HAS REJECTED THE INFORMATION STATING THAT “SPECIFIC INFORMATION FOR A SPECIFIC PERIOD” CAN BE PROVIDED**

Illegality – No.4

- **EACH AND EVERY INFORMATION SOUGHT BY THE APPLICANT IS A SPECIFIC ACCOUNT HEAD, IN THE ANNUAL REPORT OF PGCIL, AND SO IS NOT VAGUE**
- **THE PERIOD OF THE INFORMATION SOUGHT, IS ALSO STATED IN THE APPLICATION**
- **ALL THE INFORMATION SOUGHT, WOULD BE AVAILABLE IN THE SCHEDULE OF ACCOUNTS, PREPARED FOR AUDIT, BY THE AUDITORS, BASED ON WHICH THE ANNUAL REPORT AND ANNUAL ACCOUNTS OF PGCIL WAS PREPARED**

2.2. It is in the letter of the law and several case laws that reasons for rejection should be specific and with some basis and logic as under :

- PIO has **not stated the specific reasons and rationale** for the rejection of the RTI Application.
 - o **DOPT Circular - F.No.10/1/2013-IR- dated the 6th of October,2015** states that the PIO has to state the “**detailed reasons for refusal or rejection**” - and the same is also supported by “**Section 4(1)(d)**” of the RTI Act,2005
 - o Non-Provision of Reasons for Rejection, is a Violation of **Section 7(8)(i)**, of the RTI Act,2005
 - o Non-Provision of Reasons for Rejection, is a Violation of **Section 4(1)(d)**, of the RTI Act,2005
 - o Non-Provision of Reasons for Rejection is a **violation of SC Judgments**, as under:
 - § The SC held that “**reasons**” for administrative decisions and quasi judicial decisions “**must be recorded in detail**”, to “**support the conclusions**”, if they affect anyone “**prejudicially**”, and “**must be communicated**” to the concerned person
 - Civil Appeal No. 9095 of 2012 (Arising out of SLP(C) No.7529 of 2009) in the case of Manohar s/o Manikrao Anchule Vs.State of Maharashtra & Anr.
- **Refusing information w/o reason and w/o providing the justification of the section and its applicability to the information sought is a sign of malafide intent** by the PIO ,and liable to penalty – as per CIC/HC case laws – illustrated below for Section 8(1) of the RTI Act,2005.

o **HIGH COURT OF DELHI in W. P. (C) 12428/2009 & CM APPL 12874/2009 DEPUTY COMMISSIONER OF POLICE versus D.K.SHARMA –Judgment dated 15-12-2010**

§ This Court is inclined to concur with the view expressed by the CIC that in W.P. (Civil) 12428/2009 order to **deny the information under the RTI Act the authority concerned would have to show a justification with reference** to one of the specific clauses under Section 8 (1) of the RTI Act

o **Hon’ble High Court of Kerala in Ibrahim Kunju v. State of Kerala AIR 1970 Ker 65**

§ If **no reasons are given in the appellate orders, then it is injustice to the natural justice** because quasi judicial obligations are giving reasons for order, since justice is not expected to wear the inscrutable face of a sphinx”

3.FAA Hearing

3.1.The Appellant **demand a FAA Hearing Notice and the presence of the Appellant in the FAA Hearing OR A TELEPHONIC HEARING**

- It is **proposed that 1 FAA hearing be used to submission and arguments** – except the case referred to in Para 3.4.

CIC Case law - Illegality of FAA Order and process - wherein Appellant had specifically asked for Hearing

In CIC order **CIC/SM/A/2013/000312 dated 18-7-2012, CIC held**,as under:

- During the hearing, among other submissions, the Appellant specifically wanted us to take note of the fact that the **Appellate Authority had not given him any opportunity of hearing even after he expressly requested for that** Although the Right to Information (RTI) Act or the rules made thereunder do not prescribe in detail the procedure to be followed by the Appellate Authority in dealing with first appeals, by convention, the Appellate Authority should give an opportunity of hearing to any Appellant if the Appellant expressly wants to be heard. **Therefore, we would like the Appellate Authority to bear this in mind and, wherever any such request is made, to afford an opportunity of hearing to that Appellant.** Subsequently this ruling was followed in another second appeal CIC/SM/A/2013/001324RM

This was also held in the case of the Appellant in CIC Case reference File no.: **CIC/MMTCL/C/2019/ 643215**,in the case of **Samir Sardana vs. CPIO - MMTC**

The above ratio was also held in the case of the Appellant in CIC Case reference File no.: **CIC/ STCIL/ C/ 2019/ 645981**,in the case of **Samir Sardana vs. CPIO – STCIL**

The above ratio was also held in the case of the Appellant in CIC Case reference File no.: **CIC/ STCIL/C/ 2019/645952** ,in the case of **Samir Sardana vs. CPIO – STCIL**

The above ratio was also held in the case of the Appellant in CIC Case reference File no.: **CIC/ STCLT/C/2019/646473**, in the

3.2. This has been held to be the law in past HC and CIC case laws – and also, the Appellant has to explain the basis of compensation sought, as also, explain the issues laid out in Para 2, above.

CIC Case law - Illegality of FAA Order and process

The CIC has held in the following [case.as](#) under :

File No. **CIC/SA/A/2014/000254**

Appellant/Complainant : **Mr. R.K.Jain**
Respondent : **Department of Legal Affairs, Government of India**
Date of hearing : **24112014**
Date of decision : **05122014**

- The Commission also notes that the way the first appeal was conducted by the FAA is wrong and illegal for want of compliance with the principles of natural justice and violation of Section 19(6) of the RTI Act, wherein time limit is prescribed as 45 days. FAA went on hearing without issuing hearing notice to the appellant and concluded that no further hearing was necessary, which reflects illegal and unreasonable handling of the first appeal, driving the appellant to Second appeal, thereby creating confusion besides increasing the workload.
 - The Commission, therefore, takes this opportunity to caution the First Appellate Authority not to repeat illegal practice of not hearing the appellant, not persuing natural justice, not having the time limit provided under the RTI Act.
- The Commission cited the decision of **Supreme Court in its Civil Appeal No.9095/2012 Manohar Vs. State of Maharashtra, stated in para 23:** ...Thus, the principle is clear and settled that right of hearing, even if not provided under a specific statute, the principles of natural justice shall so demand, unless by specific law, it is excluded. It is more so when exercise of authority is likely to vest the person with consequences of civil nature....
- CIC also recommended action against the officer for this 'illegal' order

3.3. The Appellant **also demands an Original Copy of the Say of the PIO, w.r.t this 1st Appeal – 5 days before the date of the hearing**

• If it cannot be sent for any reason – then the Say of the PIO should be handed over to the Appellant on the date of the FAA Hearing – before the commencement of the FAA Hearing

3.4. If the Appellant cannot attend the FAA Hearing – id.est., the 1st Hearing – the Appellant will send the Written Representation and the FAA can send the Say of the PIO

• In this event the FAA needs to conduct a 2nd Hearing for Arguments – wherein again the Appellant will submit the Riposte to the Say of the PIO – which will need to be received by the FAA

3.5. The FAA MIGHT ALSO NOTE THE FOLLOWING SC CITATION ON THE CONDUCT OF QUASI JUDICIAL PROCEEDINGS, AS UNDER :

- The Constitution Bench of the Supreme Court in **S N Mukherjee v Union of India**¹⁰³ observed:
 - The object underlying the rules of natural justice —is to prevent miscarriage of justice and secure —fair play in action. As pointed out earlier the requirement about recording of reasons for its decision by an administrative authority exercising quasi-judicial functions achieves this object by excluding chances of arbitrariness and ensuring a degree of fairness in the process of decision-making. Keeping in view the expanding horizon of the principles of natural justice, we are of the opinion, that the requirement to record reason can be regarded as one of the principles of natural justice which govern exercise of power by administrative authorities. The rules of natural justice are not embodied rules.
 - (Emphasis supplied) The requirement to record reasons is a principle of natural justice and a check against the arbitrary exercise of power by judicial and quasi-judicial bodies. In making a determination under clause (j) of clause (1) of Section 8 in a given case, it would not be satisfactory if an Information Officer were merely to record (1990) 4 SCC 495

4. Section 7(6) of the RTI Act, 2005 - Information to be provided free of cost

4.1. Since the PIO made an illegal REJECTION OF THE ENTIRE INFORMATION SOUGHT (Refer Para 2.1. above) - it is submitted that the PIO has to provide the above information, free of cost u/s 7(6) of the RTI Act, 2005 and the spirit of the RTI Act, 2005.

- The Applicant will need **to verify the copies taken with the originals and each page needs to have a stamp as "Certified True Copy" - as per the RTI Act,2005**
- The certified copies handed over to the Applicant **should have a covering letter stating the specifics of the copies given and the basis of the fees**

5.Violation of Duties of a PIO

5.1.Section 7 explains the duties of CPIO under RTI Act, it says:

Subject to the proviso of sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Central Public Information Officer or State Public Information Officer, as the case may be, on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, **either provide** the information on payment of such fee, as may be prescribed or **reject the request for any of the reasons specified in sections 8 and 9.**

6.The Facts of the Case

6.1.It is posited that all the information sought by the Applicant in THE RTI Application , CAN BE OBTAINED BY the PIO OF THE PGCIL

7.Criticality of the Information sought

7.1.The Information is sought, as a matter of paramount public and national interest, as stated in Para 1.5 of this Appeal

8.Grounds of the 1st Appeal

8.1.The actions of the PIO are patently and blatantly illegal and malafide, with intent to cheat and defraud the Appellant (also refer to Para 2, Para 4 and Para 5 above), besides reflecting the animus and bias, against the Appellant.

8.2. The Eight (8) Grounds of Appeal, are given below:

- **Ground of Appeal No.1 – PIO has MADE AN ILLEGAL REJECTION U/S 7(9) OF THE RTI ACT**
- **Ground of Appeal No.2 – PIO ILLEGALLY CLAIMS THAT THE INFORMATION SOUGHT IS VOLUMINOUS**
- **Ground of Appeal No.3 – PIO ILLEGALLY CLAIM S THAT THE INFORMATION IS SPREAD ACROSS THE COUNTRY**
- **Ground of Appeal No.4 – PIO CLAIMS THAT SPECIFIC INFORMATION SOUGHT FOR SPECIFIC PERIODS SHALL BE PROVIDED**
- **Ground of Appeal No.5– Public Interest in the information sought**
- **Ground of Appeal No.6-Information required in the interest of transparency**
- **Ground of Appeal No.7- PIO does not have the ken to execute a Rights based welfare enactment**
- **Ground of Appeal No.8 – No Specific Reason for Rejection by the PIO**

8.2.1..Ground of Appeal No.1 - PIO has MADE AN ILLEGAL REJECTION U/S 7(9) OF THE RTI ACT

8.2.1.1 PIO has MADE AN ILLEGAL REJECTION U/S 7(9) OF THE RTI ACT , as under:

- **THE PIO HAS LIED ,AS ALL THE DATA IS AVAILABLE WITH THE ACCOUNTS AND AUDIT CELL OF THE PGCIL WHICH PREPARES THE CONSOLIDATED ANNUAL ACCOUNTS AND ANNUAL REPORTS OF PGCIL**
 - **HENCE ,THERE CAN BE NO DISPROPORTIONATE DIVERSION OF RESOURCES**
 - **THE INFORMATION HAS TO BE READILY AVAILABLE AS W/O THIS DATA AND ITS ANALYSIS,THE MANAGEMENT OF PGCIL WOULD BE CRIMINALLY REMISS,W.R.T. ITS MANAGEMENT AND STRATEGIC OVERSIGHT**
 - **FOR EXAMPLE WOULD THE AGEING OF DEBTOTRS NOT BE DONE TO SEE WHO ARE THE PRIVATE ENTITIES WHOSE DEBTS ARE DUE FOR MORE THAN 3 YEARS ?**
 - **WOULD THE MANAGEMENT NOT REVIEW THE PROGRESS OF LITIGATIONS ,ESPECIALLY AT AN ALL INDIA LEVEL**
 - **WOULD EVERY FRAUD NOT BE ANALYSED BY THE AUDIT COMMITTEE AT THE HQ**
 - **WOULD THE INSURANCE AND SECURITY COSTS NOT BE ANALYSED BY THE RISK COMMITTEE**

- IF THE MANAGEMENT IS INDEED REMISS, THEN THE MATTER IS IN PARAMOUNT NATIONAL AND PUBLIC INTEREST, AND THAT IS THE “BENEFIT OF THE INFORMATION SOUGHT”
 - A PGCIL CANNOT BE OPERATED AND MANAGED W/O THE INFORMATION SOUGHT BY THE APPLICANT – IN VARIED COMBINATIONS AND FORMATS
- THE PIO HAS NOT MADE A REPLY TO A SINGLE INFORMATION REQUIREMENT
 - DOES THAT MEAN THAT THE PIO VIEWS EACH INFORMATION SOUGHT AS A COMPLETE WASTE OF PGCIL’S RESOURCES ?
 - DOES THAT MEAN THAT THE PIO BELIEVES THAT NONE OF THE INFORMATION REQUIREMENTS ARE READILY AVAILABLE ?
- AS PER THE KERALA HIGH COURT – SECTION 7(9) IS NO GROUND TO REJECT INFORMATION
- AS PER THE DELHI HIGH COURT – EVEN LOSS OF INFORMATION, BY A PUBLIC AUTHORITY, IS NO REASON TO REFUSE DATA
- AN INFORMATION SOUGHT FOR A RTI APPLICATION CAN ONLY BE REJECTED U/S 8,9 AND 24, OF THE RTI ACT

8.2.1.2. IT MIGHT ALSO BE NOTED THAT SECTION 7(9) “DOES NOT GIVE THE RIGHT TO REFUSE INFORMATION” AS PER Hon’ble Kerala High Court in TREESA IRISH vs. THE CENTRAL PUBLIC INFORMATION OFFICER [WP(C).No. 6532 of 2006]

- That Section does not even confer any discretion on a public authority to withhold information, let alone any exemption from disclosure. It only gives discretion to the public authority to provide the information in a form other than the form in which the information is sought for, if the form in which it is sought for would disproportionately divert the resources of the public authority. In fact there is no provision in the Act to deny information on the ground that the supply of the information would disproportionately divert the resources of the public authority

8.2.1.3. AS PER THE DELHI HIGH COURT EVEN LOSS OF INFORMATION IS NO GROUND TO REJECT INFORMATION W/O CONSEQUENCES, AS UNDER:

- The Honble High court of Delhi in writ petition © 36609/12 and CM 7664/2012 (stay) in case of Union of India V/s vishwas Bhamburkar has held
- “It is not uncommon in the Government departments to evade the disclosure of the information taking the standard plea that the information sought by the applicant is not available. Ordinarily, the information which at some point of time or otherwise was available in the records of the government should continue to be available to the concerned department unless it has been destroyed in accordance with the rules framed by the department for destruction of old records. \
- Even in the case where it is found that desired information though available at one point of time is now not traceable despite of best efforts made in the regards , the department concerned must fix responsibility for the loss of records and take action against the officers /official responsible for the loss of records

8.2.1.4. The PIO HAS REJECTED THE INFORMATION O/S THE AMBIT OF SECTION 8 AND 9 OF THE RTI ACT VIOLATING THE DUTIES OF THE PIO IN SECTION 7 OF THE RTI ACT

8.2.2. Ground of Appeal No.2 - PIO ILLEGALLY CLAIMS THAT THE INFORMATION SOUGHT IS VOLUMINOUS

8.2.2.1. THE PIO HAS ILLEGALLY CLAIMED THAT THE INFORMATION SOUGHT IS VOLUMINOUS

- THE PIO HAS LIED, AS A COMPANY LIKE PGCIL CANNOT OPERATE W/O AN ERP – AND ALL THE INFORMATION IS AVAILABLE IN THE ERP OF PGCIL AT THE CLICK OF A BUTTON
 - THE CONCEPT OF VOLUMINOUS DATA IS MEANINGLESS FOR E-DATA, AND ESPECIALLY THE ACCOUNTS AND RISK AND REPORTAGE DATA - AS THAT IS SUBJECT TO CONCURRENT, INTERNAL AND STATUTORY AUDITS – WHICH ARE DONE BY THE AUDITOR, ELECTRONICALLY AND OFFLINE
 - THEREFORE, VOLUMINOUS DATA IS NOT A CAUSE FOR REJECTION
- THE PIO HAS ALSO LIED, AS SOME OF THE DATA IS NOT VOLUMINOUS, AS UNDER :
 - FRAUDS DATA IS NOT VOLUMINOUS AS THERE ARE NOT INNUMERABLE FRAUDS IN PGCIL
 - IF THE NUMBER OF FRAUDS ARE INNUMERABLE, THEN THE DATA IS IN NATIONAL AND PUBLIC INTEREST
 - DONATIONS DATA IS NOT VOLUMINOUS
 - FX INCOME AND REVENUE DATA IS NOT VOLUMINOUS
 - BAD DEBTS AND PROVISIONS DATA IS NOT VOLUMINOUS
 - AUDIT AND CSR DATA IS NOT VOLUMINOUS
 - AGEING DATA IS DISCLOSED IN THE ANNUAL REPORT AND THUS CANNOT BE VOLUMINOUS

8.2.3. Ground of Appeal No.3 - -- PIO ILLEGALLY CLAIMS THAT THE INFORMATION IS SPREAD ACROSS THE COUNTRY

8.2.3.1.The – PIO ILLEGALLY CLAIM S THAT THE INFORMATION IS SPREAD ACROSS THE COUNTRY

- **THE PIO HAS LIED ,AS ALL THE DATA IS AVAILABLE WITH THE ACCOUNTS AND AUDIT CELL OF THE PGCIL WHICH PREPARES THE CONSOLIDATED ANNUAL ACCOUNTS AND ANNUAL REPORTS OF PGCIL**
 - **THE INFORMATION MIGHT RELATE TO THE LENGTH AND BREADTH OF INDIA – BUT IT HAS TO BE AVAILABLE WITH THE CENTRALISED AUDIT ACCOUNTING AND REPORTING SECTION OF PGC – AS W/O IT THE ANNUAL REPORT CANNOT BE PREPARED**
 - **A COMPANY LIKE PGCIL CANNOT OPERATE W/O AN ERP – AND ALL THE INFORMATION IS AVAILABLE IN THE ERP OF PGCIL AT THE CLICK OF A BUTTON**
 - **A COMPANY LIKE PGCIL CANNOT OPERATE W/O THE DATA SOUGHT AT THE HQ LEVEL AS IT IS REQUIRED FOR DECISION MAKING AND STRATEGY AND COST REDUCTION**
- **THE PIO HAS ALSO LIED,AS SOME OF THE DATA IS DEFINTELY NOT SPREAD ACROSS THE NATION ,AS UNDER :**
 - **FRAUDS DATA HAS TO BE ANALYSED AT A HQ LEVEL ESPECIALLY IF RELATES TO A NON-HQ LOCATION**
 - **DONATIONS DATA IS NOT SPREAD ACROSS THE NATION AS ITS SANCTION HAS TO BE AT HQ/ BOD LEVEL**
 - **FX INCOME AND REVENUE DATA IS NOT SPREAD ACROSS THE NATION AS THE FX CONTRACTS AND FX CASH FLOW IN PLANNED AT THE HQ LEVEL**
 - **BAD DEBTS AND PROVISIONS DATA IS NOT SPREAD ACROSS THE NATION,AS PROVISIONS ARE MADE AND PLANNED AT HQ LEVEL ,FOR TAX,LEGAL AND ACCOUNTING PURPOSES**
 - **AUDIT AND CSR DATA, IS NOT SPREAD ACROSS THE NATION – AS IT HAS TO BE PLANNED,AT THE HQ LEVEL**
 - **AGEING DATA HAS TO BE ANALYSED,ALSO,AT THE HQ LEVEL**

8.2.4.Ground of Appeal No.4 – PIO CLAIMS THAT SPECIFIC INFORMATION SOUGHT FOR SPECIFIC PERIODS SHALL BE PROVIDED

8.2.4.1.THIS IS A SIGN OF THE INEPTITUDE AND MALAFIDE INTENT OF THE PIO

- **EACH AND EVERY INFORMATION SOUGHT BY THE APPLICANT IS A SPECIFIC ACCOUNT HEAD, IN THE ANNUAL REPORT ,OF PGCIL, AND SO,IS NOT VAGUE**
- **THE PERIOD OF THE INFORMATION SOUGHT, IS ALSO STATED IN THE APPLICATION**
- **ALL THE INFORMATION SOUGHT, WOULD BE AVAILABLE IN THE SCHEDULE OF ACCOINTS, PREPARED FOR AUDIT ,BY THE AUDITORS,BASED ON WHICH THE ANNUAL REPORT AND ANNUAL ACCOUNTS OF PGCIL WAS PREPARED**

8.2.5. Ground of Appeal No.5– Public Interest in the information sought

8.2.5.1.THE PIO BY STATING THAT THE INFORMATION IS REJECTED U/S 7(9) OF THE RTI ACT HAS IMPUTED THE FOLLWING :

- **THAT THE INFORMATION IS NOT AVAILABLE**
- **THAT THE INFORMATION IS NOT READILY AVAILABLE**
- **THAT THE COST OF THE INFORMATION SOUGHT WOULD YIELD LESSER BENEFITS TO PGCIL**

8.2.5.2.THE INFORMATION SOUGHT BY THE APPLICANT RELATES TO FINANCIAL LOSSES OF PGCIL,LEGAL EXPOSURES OF PGCIL, FINANCIAL MANAGEMENT AND EXPOSURE OF PGCIL, SECURITY AND RISK EXPOSURE OF PGCIL, EFFICACIOUS OPERATING PROCESSES OF PGCIL ETC.

- **IF THE INFORMATION IS NOT READILY AVAILABLE AS THE INFORMATION HAS NOT BEEN SOUGHT BY THE MANAGEMENT OF PGCIL – IT WOULD MEAN THAT THE PGCIL MANAGEMENT IS CRIMINALLY REMISS IN ITS FUNCTIONS – AND THAT IS IN NATIONAL AND PUBLIC INTEREST**
- **THE INFORMATION SOUGHT RELATES TO AN ANNUAL COST OF RS 200 CRORES PER ANNUM AND A FINANCIAL EXPSOURE OF RS 15000 CRORES AS OF MARCH 31,2019**

8.2.5.3 INFORMATION ON DONATIONS AND CSR IS IN OBVIOUS PUBLIC INTEREST TO KNOW THE POLITICAL LEANINGS OF THE RECIPIENTS,THEIR ANTECEDENTS AND THE PGCIL REVIEW OF END USE

8.2.5.5.FOR AN ENTITY OF THE SIZE,SCALE AND GEO SPREAD OF PGCIL THE NATURE,SCOPE, EXTENT AND ROTATION OF THE AUDITS - IS IN OBVIOUS PUBLIC INTEREST

8.2.5.6.INFORMATION ON SECURITY AND ASSET WRITE OFFS IS IN OBVIOUS NATIONAL AND PUBLIC INTEREST

8.2.6. Ground of Appeal No.5 - PGCIL is not exempted from standards of oversight, transparency and accountability

8.2.6.1. In addition, the information is also sought in the public interest, to assess the integrity, competence, efficacy and effectiveness of the PGCIL and the political and other pressures that it possibly operates under (and its past pattern of credibility/efficacy/regulation/ surveillance - which impacts the economic security and political-social stability of the State and Society)

o In this regard, the Supreme Court Direction No.14, in the case of Vineet Narain & Others vs. Union Of India & Another on 18 December, 1997, Bench: S.P. Bharucha, S.C. Sen, may be noted as under :

§ A document on PGCIL 's functioning should be published within three months to provide the general public with a feedback on investigations and information for redress of genuine grievances in a manner which does not compromise with the operational requirements of the PGCIL

8.2.6.2. Haryana HC held that if the PA has “nothing to hide” and the information will promote transparency, the information has to be disclosed, as under:

o LPA 744 and 755 of 2011, First Appellate Authority and Addl DGP v CSIC, Haryana, the bench of Hemant Gupta, AN Jindal, JJ on 2842011 observed:

§ If such information is disclosed, it will lead to transparent administration which is antithesis of corruption. If organization has nothing to hide or to cover a corrupt practice, the information should be made available.

§ The information sought may help in dispelling favoritism, nepotism or arbitrariness. Such information is necessary for establishing the transparent administration

8.2.7. Ground of Appeal No.7- PIO does not have the ken to execute a Rights based welfare enactment

8.2.7.1. The PIO lacks the Intellectual angulature, to understand and implement, the RTI Act,2005, and its discretionary provisions

· HON'BLE HIGH COURT OF DELHI in WP(C) No. 3114/2007, decided on 03.12.2007, Appellants: Bhagat Singh Vs. Respondent: Chief Information Commissioner and Ors.

o A rights based enactment is akin to a welfare measure, like the Act, should receive a “liberal interpretation”. The “contextual background and history” of the Act, is such that the exemptions, outlined in Section 8, relieving the authorities from the obligation to provide information, constitute restrictions on the exercise of the rights provided by it.

o Therefore, such exemption provisions have to be construed in their terms; there is some authority supporting this view (See Nathi Devi v. Radha Devi Gupta 2005 (2) SCC 201; B. R. Kapoor v. State of Tamil Nadu 2001 (7) SCC 231 and V. Tulasamma v. Sessa Reddy 1977 (3) SCC 99).

o Adopting a different approach would result in narrowing the rights and approving a judicially mandated class of restriction on the rights under the Act, which is unwarranted.

8.2.8. Ground of Appeal No.8- No Specific Reason for Rejection by the PIO

8.2.7.1. PIO has not stated the specific reasons and rationale for the rejection (U/s 7(9) and 8(1) of the RTI Act,2005) of the RTI Application – AS THE PIO HAS NOT PROVIDED A SINGLE CASE OR INSTANCE OR EXAMPLE WHEREIN A SINGLE PIECE OF INFORMATION SOUGHT BY THE APPLICANT , WOULD QUALIFY TO BE REJECTED UNDER THE SECTIONS QUOTED BY THE PIO

8.2.8.2. It is in the letter of the law and several case laws that reasons for rejection should be specific and with some basis and logic as under :

• PIO has not stated the specific reasons and rationale for the rejection of the RTI Application – us/ 8(1)(h) of the RTI Act,2005.

o **DOPT Circular - F.No.10/1/2013-IR- dated the 6th of October,2015** states that the PIO has to state the “detailed reasons for refusal or rejection” - and the same is also supported by “**Section 4(1)(d)**” of the **RTI Act,2005**

o Non-Provision of Reasons for Rejection, is a Violation of **Section 7(8)(i)**, of the RTI Act,2005

o Non-Provision of Reasons for Rejection, is a Violation of **Section 4(1)(d)**, of the RTI Act,2005

o Non-Provision of Reasons for Rejection is a **violation of SC Judgments**, as under:

♣ The SC held that “reasons” for administrative decisions and quasi judicial decisions “**must be recorded in detail**”, to “**support the conclusions**”, if they affect anyone “**prejudicially**”, and “**must be communicated**” to the concerned person

• Civil Appeal No. 9095 of 2012 (Arising out of SLP(C) No.7529 of 2009) in the case of Manohar s/o Manikrao Anchule Vs.State of Maharashtra & Anr.

• **Refusing information w/o reason and w/o providing the justification of the section and its applicability to the information sought is a sign of malafide intent** by the PIO ,and liable to penalty – as per CIC/HC case laws – illustrated below

for Section 8(1) of the RTI Act,2005.

o **HIGH COURT OF DELHI in W. P. (C) 12428/2009 & CM APPL 12874/2009 DEPUTY COMMISSIONER OF POLICE versus D.K.SHARMA –Judgment dated 15-12-2010**

♣ This Court is inclined to concur with the view expressed by the CIC that in W.P. (Civil) 12428/2009 order to **deny the information under the RTI Act the authority concerned would have to show a justification with reference** to one of the specific clauses under Section 8 (1) of the RTI Act

o **Hon'ble High Court of Kerala in Ibrahim Kunju v. State of Kerala AIR 1970 Ker 65**

♣ If **no reasons are given in the appellate orders, then it is injustice to the natural justice** because quasi judicial obligations are giving reasons for order, since justice is not expected to wear the inscrutable face of a sphinx”

9.Burden of Proof

9. 1.. As per Section 19(5) of the RTI Act,2005,**the burden of proof lies in the PIO/CPIO/Public Authority**. According to Section 19(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.”**

The same is also held in **BS. Mathur Vs. Public Information Officer of Delhi High Court, W.P. (C) 295 and 608/2011 High Court of Delhi”**.

9.2. As per Section 20(1) of the RTI Act - Provided further that the **“burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer”** or the State Public Information Officer, as the case may be.

10.Order Sought

10.1. The Appellant seeks the following order from the FAA

- **Impose Maximum Penalty, on the PIO under Section 20(1) ,of the RTI Act,2005**
- **Dismissal of the PIO (under the Ministry of Power Rules and the Code of Conduct for PGCIL staff AND OTHER Officers laid down by the Ministry of Power) FOR ILLEGAL AND MALAFIDE ACTION ,and also under the PGCIL SERVICE RULES– which has several provisions for the same**
- **Administrative action and/strictures, against the PIO (under Section 20(2) , of the RTI Act,2005, ,and also under the PGCIL service rules– which has several provisions for the same**
- **Recommendation to the Ministry of Power for administrative action and/strictures, against the PIO**
- **Direct the Respondents to refund the Application fee paid by Complainant while submitting RTI Application, as per section (7)(6) of the RTI Act;**
- **Invoke its powers under the RTI Act to issue any other direction or recommendation as it may deem appropriate.**
- **Direct the public authority to make entry in Service Book/Annual Performance Appraisal Report of the Respondents for defying the provisions of the Act (under the PGCIL SERVICE RULES– which has several provisions for the same)**
- **Compensate the Appellant**

Yours Sincerely,



Samir Sardana

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