

CENTRAL INFORMATION COMMISSION

Club Building, Near Post Office
Old JNU Campus, New Delhi 110 067.
Tel: 91 11 26161796

Decision No. CIC/SG/A/2009/000635/3336Adjunct1
Appeal No. CIC/SG/A/2009/000635

Relevant Facts emerging from the Appeal

Appellant : Mr. Ramesh Tiwari
64-B, Phase-II,
DDA Flats,
Katwaria Sarai
New Delhi-110016

Respondent : Registrar
P. G. & Research Institute,
University Wing,
Dakshina Bharat Hindi Prachar Sabha,
Thyagaraynagar,
Chennai

RTI application filed on : 19/01/2009
PIO replied : 12/02/2009
First appeal filed on : 23/02/2009
First Appellate Authority order : Not Mentioned
Second Appeal received on : 13/03/2009

Background:

The Appellant had sought certain information in RTI application dated 19/01/2009 from the Registrar, P. G. & Research Institute, Dakshina Bharat Hindi Prachar Sabha. He received partial information on 12/02/2009. He filed a First Appeal on 23/02/2009 stating that he had not been provided the information. As he did not get any information he filed a Second Appeal. The Second Appeal was heard by the Commission on 20/05/2009 and the Commission allowed the Appeal. Vide Decision No. CIC/SG/A/2009/000635/3336 dated 20/05/2009 the Commission had directed the PIO to give complete information before 10 June 2009.

The Commission further issued a show cause notice to the PIO as he was found guilty of not furnishing information within the time specified under sub-section (1) of Section 7 by not replying within 30 days, as per the requirement of the RTI Act. He was directed present himself before the Commission on 2 July 2009 at 4.30 pm alongwith his written submissions to show cause why penalty should not be imposed on him as mandated under Section 20 (1).

During the Show Cause Hearing on 02/07/2009, Mr. P.J.X. Vedanagam on behalf of PIO, submitted that the Dakshina Bharat Hindi Prachar Sabha was not a public authority under the RTI Act. He stated that they were not instituted by any law made by the Parliament or state legislature, or notification issue by the appropriate Government. He also stated that they were not owned controlled or substantially financed by the Government and hence were not covered by the definition of public authority as given under Section 2(h) of the RTI Act. The respondent's representative stated that he had provided some information but had not thought in terms of whether they were a public authority or not.

The Commission passed the following Adjunct Order on 02/07/2009:

“In view of the submissions made by the respondent it appears that Dakshina Bharat Hindi Prachar Sabha may not be a public authority and therefore not covered by the RTI Act. However, if any evidence to contrary is produced before the Commission thus Dakshina Bharat Hindi Prachar Sabha will be held responsible for making a wrong declaration before the Commission.”

Subsequently the Commission received submissions from the Appellant stating that the Dakshina Bharat Hindi Prachar Sabha is a public authority. The Commission vide notice dated 22/07/2009 directed Dakshina Bharat Hindi Prachar Sabha to respond to the Appellant’s allegations by 16/08/2009 and to provide figures certified by a Chartered Accountant to the Commission which reflect what proportion of the annual budget of the Dakshina Bharat Hindi Prachar Sabha is covered by grants received from the government. As the Commission did not receive a response to this notice, another notice dated 08/09/2009 was sent to the Dakshina Bharat Hindi Prachar Sabha giving them a second opportunity.

The Commission has received submissions dated 15/09/2009 from Dakshina Bharat Hindi Prachar Sabha. In this the audited income and expenditure account for the year 2004-2005, 2005-2006, 2007-2008 along with a certificate of the Chartered Accountant showing the proportion of the grants received by the Dakshina Bharat Hindi Prachar Sabha have been enclosed.

Adjunct Decision dated 17/11/2009:

The Commission has perused the submissions sent by Dakshina Bharat Hindi Prachar Sabha. In the certificate issued by the Chartered Accountant the following is stated:

Financial Year	Grant Amount	Total Income	% of Total Income
2004-2005	4,687,837	53,083,659	8.83%
2005-2006	7,617,600	60,570,473	12.58%
2006-2007	9,609,310	64,873,881	14.81%
2007-2008	9,532,360	63,036,431	15.12%
Total	31,447,107	241,564,444	13.02%

Section 2(1)(h) of the RTI Act defines ‘public authority’.

- h) **“public authority”** means any authority or body or institution of self government established or constituted,—
- (a) by or under the Constitution ;
 - (b) by any other law made by Parliament;
 - (c) by any other law made by State Legislature;
 - (d) by notification issued or order made by the appropriate Government, and includes any--
 - (i) body owned, controlled or substantially financed;
 - (ii) non-Government organisation substantially financed, directly or indirectly by funds provided by the appropriate Government;”

Therefore a body substantially financed by the appropriate government is a public authority as per Section 2(h)(d)(i). The issue to be determined is whether Dakshina Bharat Hindi Prachar Sabha is substantially financed. The Commission in Decision No. CIC/SG/C/2009/001193/5009 dated 05/10/2009 has held that-

“...if a body receives a minimum of Rs. 5 lacs and this amount constitutes over ten percent of its annual income, the body can be considered to be ‘substantially funded’ for the purposes of the Right to Information Act, and would be considered to be a Public authority.”

In view of this decision of the Commission, it is clear that the Dakshina Bharat Hindi Prachar Sabha is substantially funded by the government since 2005 as it has received more than 10% of its total income from government grants and it is therefore a public authority under Section 2(h) of the RTI Act.

The Commission therefore directs the Dakshina Bharat Hindi Prachar Sabha to appoint a Public Information Officer and a First Appellate Authority before 15 December 2009. A compliance report in this regard must be sent to the Commission before 21 December 2009. Dakshina Bharat Hindi Prachar Sabha is further directed to fulfill its obligations under Section 4 of the RTI Act before 31 January 2009. A compliance report with regard to Section 4 compliance will be sent to the Commission before 10 February 2009.

The Commission had received partial information from the Dakshina Bharat Hindi Prachar Sabha which it has forwarded to the Appellant. The Dakshina Bharat Hindi Prachar Sabha is further directed to provide the following information to the Appellant before 21 December 2009:

1. Pay scale and Total pay as well as official address of the members of the staff and employees of the Distance Education Directorate; if any persons have been dismissed, reasons for such dismissal if any.
2. Pay scale and Total pay as well as official address of the members of the staff and employees of the PG & Research Institute; if any persons have been dismissed, reasons for such dismissal if any.
3. Date of Appointment of Dr. Dilip Singh as the Registrar; Income and Expenditure of the PG & Research Institute for the last three years.
4. Official Address of the Chancellor, Vice Chancellor and Pro Vice Chancellor of the PG & Research Institute
5. Official Address of the members of the Academic Council and Executive Council of the PG & Research Institute

Shailesh Gandhi
Information Commissioner
17 November 2009