

OFFICE OF THE FIRST APPELLATE AUTHORITY
(Appointed under the Right to Information Act, 2005)
The Institute of Company Secretaries of India
ICSI House, C-36, Institutional Area, Sector-62,
Noida - 201 309 (U.P.)

Appeal No. 06/2021

IN THE MATTER OF:

Sharad Kumar Jhunjhunwala
A-11 Ashok Vihar
Ranchi- 834002
Jharkhand

Appellant

Vs.

Central Public Information Officer
The Institute of Company Secretaries of India
ICSI House
22, Institutional Area, Lodi Road
New Delhi - 110 003

Respondent

Date of Order: 12th February, 2021

ORDER

1. The Appellant has filed first appeal on 16th January, 2021 under Section 19(1) of the Right to Information Act, 2005 in connection with query Ref. No. RTI 2005/4757(20) dated 15.01.2021 against the Central Public Information Officer (CPIO) (hereinafter referred to as Respondent) of the Institute of Company Secretaries of India.
2. The Appellant vide his application dated 28.04.2020 has requested to provide information through RTI.
3. The Appellant has informed in the instant appeals that "Refused access to information Required".
4. The reply of the Respondent against the instant appeal is as under:-

"It is submitted that the Council has decided that its agenda and minutes and those of the committees and boards of the Council and the Institute shall not be provided under the RTI Act, 2005.

It is further stated that most of the extracts of minutes of the meetings of the ICSI contains information which are relating to the sensitive matters i.e. students' and members' information/data, examinations, academics, Company Secretaries Act, 1980, etc. This information included commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party and the disclosure of such information is not in larger public interest. Therefore, it is strongly urged that all this information squarely falls within the ambit of Section 8(1)(d) of the RTI Act and there are such information which contains the fiduciary relationship; the disclosure of such information is also not in larger public interest as per the Section 8(1)(e) of the RTI Act, 2005.

However, as decided by the higher authorities of the ICSI, there are some of the extracts of the minutes of the meetings the ICSI which have already been uploaded on the website of the ICSI for which there were no issue to upload for public. The weblink where the extract of the meeting are uploaded on website of the Institute is as follow:- https://www.icsi.edu/whats_new_icsi/

An order No. 126/2020 issued by Hon'ble First Appellate Authority of the ICSI relating to the same matter is referred and attached.

Please also refer the para number 20 and 21 of the judgement dated 18.08.2020 of Hon'ble High Court of Delhi in the matter of W.P.(C) 11399/2016

20. In that case also, the CIC had passed a decision to give the Minutes of the Board Meeting directing expunction of information which was exempt under Section 8(1)(d) of the Act. Hence, as noted by the aforementioned judgment, the CIC left the whole thing at the discretion of the petitioner which was held not to be the correct approach.

21. A perusal of the reply given by the CPIO dated 17.09.2014 to respondent No. 2's application shows that there were in all 10 Board Meetings that had been held. Further details are not on record. In the facts of this case, it would be for the CIC to go into the minutes of the Board Meetings and of the AGMs and to determine as to which of the information which is contained in the minutes attracts the provision of Section 8(1)(d) of the Act, namely, are exempt from disclosure and which portion of the minutes can be given to respondent No. 2 in response to his application under the RTI Act. The CIC while looking at the aforesaid matter afresh may keep into account the above observations of the Supreme Court to determine as to whether the demand of respondent No. 2 for minutes of all the Board Meetings for the stated period would fall in the category of being counterproductive and a misuse/abuse of the RTI Act that was frowned upon by the Supreme Court.

Further, it is not obligatory for the CPIO of the ICSI to comment on the order(s) issued by First Appellate Authority(ies) of other Public Authority(ies).

In view of the foregoing, the information cannot be provided and therefore, the appeal deserves to be dismissed *in-limine*."

5. This Office has carefully considered the application, the response, the appeal and the records made available and finds that the matter can be decided based on the material available on record.

6. This Office concurs with the submissions of the Respondent.

The appeal is accordingly dismissed.

Sd/-
(Ankur Yadav)
First Appellate Authority

Copy to :

1. Mr. Sharad Kumar Jhunjunwala
A-11 Ashok Vihar
Ranchi- 834002
Jharkhand

2. Mrs. Sarah Arokiaswamy
Central Public Information Officer
The Institute of Company Secretaries of India
ICSI House, 22, Institutional Area
Lodi Road
New Delhi - 110 003

3. Directorate of IT - For publishing on the website

OFFICE OF THE FIRST APPELLATE AUTHORITY
(Appointed under the Right to Information Act, 2005)
The Institute of Company Secretaries of India
ICSI House, C-36, Institutional Area, Sector-62,
Noida - 201 309 (U.P.)

Appeal No. 126/2020

IN THE MATTER OF:

Piyush Luktuke
302/B, Sarjan Complex Opp.
Bank of Baroda
Dandia Bazaar, Pratap Road-390001
Gujarat

Appellant

Vs.

Central Public Information Officer
The Institute of Company Secretaries of India
ICSI House
22, Institutional Area, Lodi Road
New Delhi - 110 003

Respondent

Date of Order: 14th September, 2020

ORDER

1. The Appellant has filed first appeal on 16th August, 2020 under Section 19(1) of the Right to Information Act, 2005 in connection with query Ref. No. RTI 2005/4818(20) dated 12.08.2020 against the Central Public Information Officer (CPIO) (hereinafter referred to as Respondent) of the Institute of Company Secretaries of India.
2. The Appellant vide his application dated 06.07.2020 had requested to provide Extracts of Minutes of Council Meeting of ICSI.
3. The Appellant has informed in the instant appeal that "Refused access to Information Requested".
4. The Respondent has informed against the instant appeal as under :

"It is submitted that the Council has decided that its agenda and minutes and those of the committees and boards of the Council and the Institute shall not be provided under the RTI Act, 2005.

It is further stated that most of the extracts of minutes of the meetings of the ICSI contains information which are relating to the sensitive matters i.e. students' and members' information/data, examinations, academics, Company Secretaries Act, 1980, etc. This information included commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party and the disclosure of such information is not in larger public interest. Therefore, It is strongly urged that all this information squarely falls within the ambit of Section 8(1)(d) of the RTI Act and there are such information which contains the fiduciary relationship; the disclosure of such information is also not in larger public interest as per the Section 8(1)(e) of the RTI Act, 2005.

However, as decided by the higher authorities of the ICSI, there are some of the extracts of the minutes of the meetings the ICSI which have already been uploaded on the website of the ICSI for which there were no issue to upload for public."

5. This Office has carefully considered the application, the response, the appeal and the records made available and finds that the matter can be decided based on the material available on record.
6. This Office concurs with the submission of the Respondent. Further, the respondent is directed to provide the relevant link where the extract of the meeting are uploaded on website of the Institute to the appellatant within 07 days of issue of the order.

The appeal is accordingly dismissed.

Sd/-
(Ankur Yadav)
First Appellate Authority

Copy to :

1. Mr. Piyush Luktuke
302/B, Sarjan Complex Opp.
Bank of Baroda
Dandia Bazzar, Pratap Road-390001
Gujarat

2. Mrs. Sarah Arokiaswamy
Central Public Information Officer
The Institute of Company Secretaries of India
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