

OFFICE OF THE FIRST APPELLATE AUTHORITY

(Under the Right to Information Act)

The Institute of Company Secretaries of India

ICSI House, 22, Institutional Area, Lodi Road

New Delhi

Appeal No. 13/2017

IN THE MATTER OF :

Hitender Mehta

C/o Vaish Associates, Advocates

9th Floor, Mohan Dev Building

13, Tolstoy Marg

New Delhi - 110 001

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 : 21st July, 2017

ORDER

1. The appellant had filed an appeal dated 30th May, 2017 under Section 19(1) of the Right to Information Act, 2005 (hereinafter referred to as 'RTI Act') in response to the information supplied vide letter bearing No. RTI 2005/1877/(17) dated 26th May, 2017 by the Central Public Information Officer (hereinafter referred to as "Respondent") of The Institute of Company Secretaries of India, ICSI House, 22, Institutional Area, Lodi Road, New Delhi.
2. In this appeal, the appellant has requested for providing information pertaining to Complaint No. DC/316/2015 filed with Director (Discipline), The ICSI.
3. The respondent vide letter dated 26th May, 2017 had informed the appellant that the information as sought by him can not be provided since it is exempt under Section 8(1)(h) of the RTI Act as the matter is *sub judice* before the Hon'ble High Court of Delhi and Disciplinary Committee.
4. The respondent has further submitted that the copy of Interim Order provided to the appellant alongwith the affidavit dated 11.05.2017 filed in the Hon'ble High Court were widely circulated on the social media. The posting of copies of Interim Order of the Disciplinary Committee on the Facebook elicited further comments.

5. The respondent has further stated that the procedure for making investigation into the complaint of professional misconduct is prescribed in the Company Secretaries Act, 1980 read with the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases), Rules, 2007. The said rules *inter alia* provide that the prima facie opinion of Director (Discipline) is to be provided to the parties in terms of Rule 14 and Rule 18 of the Rules as the case may be. The respondent further states that the stage has not yet arrived for providing the prima facie opinion of the Director(Discipline) as the same is yet to be agreed to by the Disciplinary Committee and providing the documents sought by the appellant will be in contravention of procedure laid down under the Act and Rules and would hamper the investigation process.
6. The respondent has further submitted that the judgement laid down by the Hon'ble High Court of Delhi in the case of B. S. Mathur Vs. Public Information Officer of Delhi High Court in Writ Petition (C) No. 295/2011 and Adesh Kumar Vs. Union of India in Writ Petition (C) No. 3543/2014 are not applicable to the facts of the instant case. The respondent has mentioned that in the aforesaid two cases, the matter had either already been decided or has been kept in abeyance and, therefore, the Hon'ble High Court of Delhi was pleased to direct disclosure of the information sought by the applicant therein whereas in the present case the matter is not yet decided and is *sub judice* before the Hon'ble High Court of Delhi and the Disciplinary Committee.
7. I find that an opportunity was given to the appellant for presenting his case in person, as was desired by him, on 18th July, 2017 which was not availed.
8. This Office has carefully considered the application, the response, the appeal and other records made available and finds that the matter has to be decided based on the material available on record.
9. After going through the submissions of the respondent, this Office has come to the conclusion that the various information sought by the appellant can not be provided at this stage of the investigation as per the submissions recorded.

The appeal is accordingly dismissed.

(Ankur Yadav)

First Appellate Authority

Copy to :

By Speed Post

1. Mr. Hitender Mehta
C/o Vaish Associates, Advocates
9th Floor, Mohan Dev Building
13, Tolstoy Marg
New Delhi - 110 001

By Hand

2. Mr. Ashok Kumar Dixit
Central Public Information Officer
The Institute of Company Secretaries of India
22, Institutional Area
Lodi Road
New Delhi - 110 003

By E-Mail

3. Dte. Of IT ... For publishing on the website