

BEFORE THE FIRST APPELLATE AUTHORITY
(Under the Right to Information Act, 2005)
The Institute of Company Secretaries of India
ICSI House, 22, Institutional Area, Lodi Road
New Delhi
Appeal No: 05 /14

UPDATED REPLY

IN THE MATTER OF

Shri Paras Jain
B-9/3- Vallabh Vihar Society
Sector-13, Rohini
Delhi- 110085

Appellant

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

Respondent

Place of Hearing : The ICSI, C-37, Sector – 62, Noida – 201 301 (U.P.)
Date of Hearing : 10th March, 2014
Date of Order : 14th March, 2014

ORDER

1. This is an appeal dated 27th January, 2014 (received at ICSI on 07th February, 2014) filed by Shri Paras Jain (hereinafter referred to as 'Appellant') under Section 19(1) of the Right to Information Act, 2005 (hereinafter referred to as 'the RTI Act').
2. A copy of the complaint to the Central Information Commission under Section 18(1)(f) RTI Act, 2005 was also enclosed with this Appeal. I note that I have no role to play on the same.
3. I have noted that an opportunity was given to the Appellant and the Respondent to be present on 10th of March, 2014 vide communication dated 4th March 2014, in order to enable proper appreciation of facts and figures, which was not availed by them. Subsequently, I have carefully considered the application, the response, the appeal and from the records made available to me, I find that the matter has to be decided based on the material available on record.

4. From the appeal, I note that the Appellant is aggrieved by the Respondent's response to his application wherein he had made a request for inspection of the following documents, viz. –

- (i) Minutes of the meeting of the examination committee dated 14th August, 2013.
- (ii) Minutes of the meeting of the examination committee in which it was decided to disclose answer sheets to the students.
- (iii) Minutes of the meeting of the examination committee in which it was decided to charge Rs 500/- and Rs 250/- per subject for providing the answer sheet and verification of marks respectively.
- (iv) Annual Certification which has been given by the Present Central Council Members of ICSI for the year 2008-09, 2009-10, 2010-11, 2011-12 and 2012-13.
- (v) Minutes of the meeting in which Harish Vaid, Vice-President, ICSI was appointed as the member of Convention Committee for 41st CS Conference.
- (vi) Title deeds of the ICSI Headquarter, 22, Institutional Area, Lodi Road, New Delhi-110003 and NIRC Building, Prasad Nagar, Delhi.
- (vii) Documents in which Harish Vaid, Vice- President, ICSI has declared to the ICSI that SEBI and SAT have passed order against him in the matter of Insider Trading and the matter is pending in Supreme Court of India.

5. From the appeal, I note that the Appellant is aggrieved by the Respondent's response to his application wherein he had sought information, viz. –

- (i) Total amount of expenditure on the travel, hotels on all the Central Council Members of ICSI in the year 2008-09, 2009-10, 2010-11, 2011-12 and 2012-13.
- (ii) Total income of the ICSI, from private institutions who give their advertisement on the link when result of examinations is declared, in the year last five years.
- (iii) Total gross income of the ICSI from the SIP, PDP, EDP and MSOP Training Programmes in the year 2009-10, 2010- 11, 2011-12 and 2012-13.
- (iv) Expenditure on the advertisements of the ICSI in the year 2008-09, 2009-10, 2010-11, 2011-12 and 2012-13.

- (v) Expenditure on the study group meetings which are being organised by the regional chapters of ICSI in the year 2011-12 and 2012-13.
- (vi) Direction issued by the Ministry of Corporate Affairs under Section-35(1) of the CS Act, 1980 in the month of September, October and November, 2013.
- (vii) All directions which are being issued by Naved Masood, Secretary, MCA to the ICSI in the month of December, 2013.
- (viii) Expenditure of tea, coffee and snacks on the officials of ICSI in the year 2008-09, 2009-10, 2010-11, 2011-12 and 2012-13.
- (ix) Gross Income and Expenditure on the students conferences held in the year 2011-12 and 2012-13.
- (x) Gross expenditure on the PCS Conferences in the year 2008-09, 2009-10, 2010-11, 2011-12 and 2012-13. All particulars of such conferences must be provided. (Date, Venue, Name of Council Members).

6. **Information sought at point no. 4(i), 4(ii) & 4(iii) above** - The Respondent has informed under the provisions of Section 8(1)(a), 8(1)(d), 8(1)(e), 8(1)(j) of the RTI Act, the information cannot be provided.

Upon a perusal of the information sought by the Appellant at point no. 4(i), 4(ii), 4(iii) above and response of the Respondent, I note that the reason of invoking the specific exemption clauses has not been provided by the Respondent. Mere saying that exemption is there is not enough. The Respondent is also expected to communicate the Appellant as to how the exemption is attracted on the information. In view of the same, I am remitting the application for reconsideration by CPIO to dispose off the same within 20 days of the receipt of this order.

7. As regards **information sought at point no. 4(iv)**, the response of the Respondent is not as per the information sought. I therefore, direct, the Respondent to invite the Appellant within 20 days of the receipt of this order for providing an inspection of Annual Certification which has been given by the Present Central Council Members of ICSI for the year 2008-09, 2009-10, 2010-11, 2011-12 and 2012-13.
8. As regards **information sought at point No. 4(v)**, pertaining to the minutes of the meeting, the Respondent has invoked the provisions of section 8(1)(j) of the Right of Information Act, 2005. The Respondent has not issued any clarity as to why the Section 8(1)(j) is applicable. Mere saying that exemption is there is not enough. The Respondent is also expected to communicate the Appellant as to how the exemption is attracted on the information. In view of the same, I am remitting the


application for reconsideration by CPIO to dispose off the same within 20 days of the receipt of this order.

9. The Respondent has informed under the provisions of Section 8(1)(d) of the RTI Act, the information pertaining to Title deeds of the Headquarter and NIRC Building, Prasad Nagar is exempted. Upon a perusal of the information sought by the Appellant at point no. 4(vi) above and response of the Respondent, I note that the reason of invoking the specific exemption clauses has not been provided by the Respondent. Mere saying that exemption is there is not enough. The Respondent is also expected to communicate the Appellant as to how the exemption is attracted on the information. In view of the same, I am remitting the application for reconsideration by CPIO to dispose off the same within 20 days of the receipt of this order.
10. **Information sought at point no. 4(vii) above**, the Respondent in his response stated that third party procedure is being followed. I do not find a need to interfere at this stage as the Respondent has already issued response to the Appellant vide letter number RTI 2005/1075(14) dated 31st Jan 2014.
11. As regards **information sought at point no. 5(i), 5(ii), 5(iii), 5(viii), 5(ix), 5(x) above**, the Respondent in his response stated that the information sought by the Appellant is not readily available, voluminous and requires compilation. I find no deficiency in the Respondent's response to the Appellant and I note that if such requests are acceded to, it may lead to disproportionate diversion of resources, time and hamper normal work. I have noted that there is a judgement dated August 9, 2011 of the Hon'ble Supreme Court of India in the matter of *Central Board of Secondary Education & Anr. Vs. Aditya Bandopadhyay & Ors*: had inter-alia held that "The Act should not be allowed to be issued or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, at the cost of their normal and regular duties." In view of the above, I find that there is no need to interfere with the decision of the Respondent.
12. **Information sought at point no. 5(iv), 5(v) above**, the Respondent in his response had stated that 'reply already given in RTI No-1064 dated 10.01.2014'. From the record made available to me I find that the response to the information sought by the Appellant has already been sent by the Respondent vide its reply RTI 2005/1064/(13) dated 10th January, 2014 through speed post. Further, the Respondent is directed to send the response to the Appellant again within 20 working days of receipt of this order.

13. As regards **information sought at point no. 5(vi), 5(vii) above** the Respondent in his response stated that the information, if any, may be sought from the concerned issuing authority.

Upon a perusal of the response of the Respondent, I find that the information provided by the Respondent is not in order. The Respondent is expected to provide the information or to seek approval of the MCA for providing this information to the Appellant. In view of the same, I am remitting the application for reconsideration by Respondent to dispose off the same within 20 days of the receipt of this order.

14. The appeal is accordingly disposed of.


(Ankur Yadav)
First Appellate Authority

Date: 14th March, 2014

Copy to :

(i) By Speed Post

1. Shri Paras Jain
B-9/3- VallabhVihar Society
Sector-13, Rohini
Delhi- 110085

(ii) By Hand

2. Shri T R Mehta
Public Information Officer
The Institute of Company Secretaries of India
ICSI House, 22, Institutional Area
Lodi Road
New Delhi 110 003

(iii) By Email

3. For publishing on website