

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. 09/14

IN THE MATTER OF

Shri Paras Jain
B-9/3, Vallabh Vihar Society
Sector – 13, Rohini
Delhi – 110 085

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 : 6th May, 2014
Date of Order : 6th May, 2014

ORDER

1. This is an appeal dated 24th March, 2014 (received at ICSI on 3rd April, 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. In this appeal, the Appellant stated that he had made an application under RTI Act, 2005 to CPIO, Ministry of Corporate Affairs, A-Wing, Shastri Bhawan, Rajendra Prasad Road, New Delhi – 110 001 to seek certain information vide letter dated 27th January, 2014. The application was forwarded by MCA to the Secretary of the Institute of Company Secretaries of India, ICSI House, 22 Institutional Area, Lodi Road, New Delhi – 03 vide letter dated 5th February, 2014.
3. I note that an opportunity was given to the Appellant and the Respondent to be present on 6th May, 2014 vide communication dated 1st May, 2014, in order to enable proper appreciation of facts and figures, which was not

availed. Subsequently, I have considered the application, the response, the appeal and from the records made available to me, I find that the matter can 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 sought information as well as inspection of documents, viz :-
- (i) Name of the Company Secretaries against which complaints were/are filed before the Board of Discipline in the year 2009-10, 2010-11, 2011-12 and 2012-13.
 - (ii) Minutes of the meeting of the examination committee of the ICSI for the year 2012-13 and 2013-14 and specifically of the meeting dated 14th August, 2013.
 - (iii) Name of the parties which have filed complaints/suits against ICSI before any judicial or quasi-judicial body in the year 2008-09, 2009-10, 2010-11, 2011-12 and 2012-13.
 - (iv) Inspection of the directions which are issued by the Central Government under Section-35 of the CS Act, 1980 in the year 2011-12, 2012-13 and 2013-14 (till the end of October).
 - (v) Inspection of the minutes of the meeting of the examination committee in which it was decided to charge Rs. 500/- for providing the copies of the answer sheets to the students and Rs. 250/- for the verification of the answer sheets of the students.
 - (vi) Minutes of Meeting in which President and Vice-President were re-appointed on 19th January, 2014.
 - (vii) Total amount of gross income earned through and gross expenditure on Online Job and Training Placement Portal created by ICSI.
 - (viii) Total amount of expenditure on the travels, hotels on all the Central Council Members of ICSI in the year 2009-10, 2010-11, 2011-12 and 2012-13 (the details of the expenditure must be given with name of Central Council Member wise).
 - (ix) Name of the companies/partnership firm/HUF in which any Council Member of ICSI is a director/partner/Karta respectively.
 - (x) Total number of members and students who have got job and training respectively through the online job portal created by the ICSI.
 - (xi) Name of the Central Council Members of Examination Committee who were present in the meeting held on 14th August, 2013.
 - (xii) Details along with the amount of the Voucher which are reimbursed by the ICSI to the Central Council Members of ICSI in the year 2011-12 and 2012-13.
 - (xiii) Nomination form along with the statement [see sub-rule (4) of rule 9], prescribed under the Schedule 4 of the CS (Election to the Council) Rules, 2006, which was given by the present Central Council Members of ICSI at the time of contesting last elections.

5. Information at point nos. 4(i) above that Name of the Company Secretaries against which complaints were/are filed before the Board of Discipline in the year 2009-10, 2010-11, 2011-12 and 2012-13 and in his response, the Respondent had informed the Appellant that information sought is exempted u/s 8(1) (h) of the RTI Act, 2005 as disclosure of the same would impede the process of investigation or apprehension or prosecution of offenders.

In this appeal, the appellant has *inter alia* submitted: "*the exemption has been claimed by the CPIO, ICSI under Section-8(1)(h) of the Act which stands to be invalid....*".

Upon a perusal of the information sought by the Appellant at point no. 4(i) above and response of the Respondent, I note that the disclosure of the name may impede the process of investigation or apprehension or prosecution of offenders. Hence, I direct the CPIO to disclose the name of only such Company Secretaries within 20 working days of the receipt of this order against whom professional misconduct matter has been disposed of by the Board of Discipline.

6. Information at point nos. 4(ii) above that Minutes of the meeting of the examination committee of the ICSI for the year 2012-13 and 2013-14 and specifically of the meeting dated 14th August, 2013 and in his response, the Respondent had informed the Appellant that information sought is exempted u/s 8(1)(g) & 8(1)(j) of the RTI Act, 2005. Upon a perusal of the information sought by the Appellant at point no. 4(ii) above and the 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 of the same within 20 working days of the receipt of this order.

7. As regarding information sought at point No. 4(iii) above that Name of the parties which have filed complaints/suits against ICSI before any judicial or quasi-judicial body in the year 2008-09, 2009-10, 2010-11, 2011-12 and 2012-13 and in his response, the Respondent has informed that the information, if any, may be taken from such bodies.

In this appeal, the appellant has *inter alia* submitted: "*It is not possible for any person to know the name of parties who have filed complaints/suits against ICSI before any judicial or quasi-judicial body but such information can easily be sought from ICSI, a single window to know about such information*".

Upon a perusal of the information sought by the Appellant at point no. 4(iii) above and response of the Respondent, I note that neither the information sought by the Appellant is covered by any of the exemption provisions of the

RTI Act, nor it be held back on any other ground. Therefore, I direct the CPIO to disclose the name of the parties from which notice has been received, as desired by Appellant within 20 working days of the receipt of this order.

8. Upon a perusal of the information sought by the Appellant at point no. 4(iv) above that Inspection of the directions which are issued by the Central Government under Section-35 of the CS Act, 1980 in the year 2011-12, 2012-13 and 2013-14 (till the end of October) and the response of the respondent that the information may be sought from the Central Government, I note that the information as sought is record, which if, available in the Institute should be provided to the Appellant. Therefore, I direct the CPIO to provide the information as desired by Appellant within 20 working days of the receipt of this order.
9. Information at point nos. 4(v) above that Inspection of the minutes of the meeting of the examination committee in which it was decided to charge Rs. 500/- for providing the copies of the answer sheets to the students and Rs. 250/- for the verification of the answer sheets of the students and in his response, the Respondent had informed the Appellant that information sought is exempted u/s 8(1)(g) & 8(1)(j) of the RTI Act, 2005. Upon a perusal of the information sought by the Appellant at point no. 4(v) above and the 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 of the same within 20 working days of the receipt of this order.
10. As regarding information sought at point No. 4(vi) above that Minutes of Meeting in which President and Vice-President were re-appointed on 19th January, 2014, the Respondent in his response stated that the information is exempted under section 8(1)(g) & (j) of RTI Act, 2005 and therefore cannot be provided.

Upon a perusal of the information sought by the Appellant at point no. 4(vi) above and the 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 of the same within 20 working days of the receipt of this order.

11. Upon a perusal of the information sought by the Appellant at point no. 4(vii) & 4(viii) above that Total amount of gross income earned through and gross

expenditure on Online Job and Training Placement Portal created by ICSI; and Total amount of expenditure on the travels, hotels on all the Central Council Members of ICSI in the year 2009-10, 2010-11, 2011-12 and 2012-13 (the details of the expenditure must be given with the name of Central Council Member wise) and the response of the respondent that information not maintained and not readily available in the format / content, I note that CPIO must establish clarity that the information is not maintained or alternatively not readily available. In view of the same, I am remitting the application for reconsideration by CPIO to dispose of the same within 20 working days of the receipt of this order.

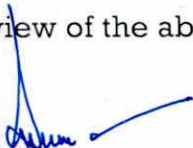
12. Upon a perusal of the information sought by the Appellant at point no. 4(ix) above that Name of the companies/partnership firm/HUF in which any Council Member of ICSI is a director/partner/Karta respectively and the response of the respondent that information is not available with the Institute, this requires collection / compilation, I note that CPIO must establish clarity that the information is not available or collection / compilation is required. In view of the same, I am remitting the application for reconsideration by CPIO to dispose of the same within 20 working days of the receipt of this order.
13. Upon a perusal of the information sought by the Appellant at point no. 4(x) above that Total number of members and students who have got job and training respectively through the online job portal created by the ICSI and the response of the respondent that information is not maintained in respect of members and such facility is not available for training, I note that the Appellant has claimed that the information as provided is not true. I do not find any reason to disbelieve the response provided by the Respondent. In view of the above, I find that there is no need to interfere with the decision of the Respondent.
14. Upon perusal of the information sought by the Appellant at point no. 4(xi) above that Name of the Central Council Members of Examination Committee who were present in the meeting held on 14th August, 2013 and the response of the respondent that the information is exempted under section 8(1)(j) of RTI Act, 2005 and therefore cannot be provided, 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 of the same within 20 working days of the receipt of this order.
15. Upon perusal of the information sought by the Appellant at point no. 4(xii) above that Details along with the amount of the Voucher which are reimbursed by the ICSI to the Central Council Members of ICSI in the year 2011-12 and 2012-13 and the response of the respondent that Information not

maintained and not readily available in the format / content, I note that CPIO must establish clarity that the information is not maintained or alternatively not readily available. In view of the same, I am remitting the application for reconsideration by CPIO to dispose of the same within 20 working days of the receipt of this order.

- 16 As regarding information sought at point No. 4(xiii) above that Nomination form along with the statement [see sub-rule (4) of rule 9], prescribed under the Schedule 4 of the CS (Election to the Council) Rules, 2006, which was given by the present Central Council Members of ICSI at the time of contesting last elections and the Respondent in his response stated that the Nomination papers contains the personal information of the candidates and hence exempted under section 8(1) (j) of RTI Act, 2005.

Upon a perusal of the information sought by the Appellant at point no. 4(xiii) above and the response of the Respondent, I note that the nomination form is a public document. In view of the same, I direct the CPIO to provide the requisite information to the Appellant within 20 working days of the receipt of this order.

In view of the above, the appeal is accordingly disposed of.



(Ankur Yadav)
First Appellate Authority

Date : 6th May, 2014

Copy to :

By Speed Post : 1. Shri Paras Jain
B-9/3, Vallabh Vihar Society
Sector - 13, Rohini
Delhi - 110 085

By Hand 2. T R Mehta
Public Information Officer
The Institute of Company Secretaries of India
ICSI House, 22 Institutional Area
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By Email 3. For publishing on website.