

CENTRAL INFORMATION COMMISSION
Appeal No. CIC/WB/A/2008/01256, dated 18-7-2008
Right to Information Act 2005 – Section 19

Appellant: Shri Wasi UI Haque
Respondent: Union Public Service Commission (UPSC)
Appeal heard: 3.2.'10
Decision announced: 9.2.2010

FACTS

By an application of 6-2-2008 Shri Wasi UI Haque of JNU, New Delhi applied to CPIO Shri Prachish Khanna, DS (E-1) EA, UPSC seeking information contained in a booklet comprised of 459 questions spread over 139 pages concerning every aspect of the functioning of the UPSC including the condition of toilet, bath rooms, wash rooms and the details of the individual health of every examiner engaged in the evaluation of CS Main Examination 2006. The covering letter to this petition concludes as follows:

“You are suggested to reveal/ inform proactively in sync with the spirit of this RTI petition in the welfare of the candidates and the general public. Every query in this RTI petition serves some urgent public interest manifestly or latently.”

To this CPIO Shri Prachish Khanna in his letter of 5-3-08 responded as follows:

2. It may be noted that the information can be provided in the form in which it is sought, unless it would disproportionately divert the resources of the public authority, under section 7 (9) of RTI Act, 2005. The present application runs into 137 pages with 459 questions and thousands of sub-questions which by own admission of the applicant is an elaborate RTI query which may require more than normal time of 30 days mandated by RTI Act, 2005.
3. While seeking a large quantity of data and information of different types and nature, the bonafide public interest in seeking the information has not been made clear. It is difficult to discern any public interest from questions like; 'How many members of the Commission were/ are bespectacled?'

or

'How many examiners fought among themselves while examining the answer sheets for CSE, 2006?' (Question No. 62)

or

'Please briefly indicate all the English/ grammatical/ typographical errors in this RTI' (question No. 406).'

The above are examples only. In addition many questions are interrogatory in nature eliciting Commission's explanation on certain events, which is not covered under the definition of information under RTI Act.

4. Most of the useful information is clearly available on the UPSC website: www.upsc.gov.in under Pro-active Disclosure (RTI) heading.
5. An information seeker should also keep in mind the cost effectiveness of disclosure of information. It is therefore, requested to minimize and prioritise the information needs, which can be provided without unduly jeopardising the normal activities of the Commission."

Shri Wasi Ul Haque then moved an appeal before Shri K.S. Bariar, JS (Exam.) dated 19-3-08 pleading as follows:

"Sir, it is true that many questions in the said RTI petition are apparently futile but there is a latent significance to all of them. This RTI was also meant to be an IQ test and a test of the nature, temperament, disposition and style of working of the Commission hence there were many apparently irrelevant questions supplied deliberately. The way of your denial to each individual question would also have revealed a lot about the Commission. The concerned CPIO was supposed to separate the wheat from the chaff but instead he has chosen to throw the baby out with bath water. Mr. Khanna has definitely not even read the complete petition he has read only words/ pages/ paragraphs. The Commission has failed the first test here is your second and last chance.

Mr. Khanna has not noticed that there were many crucial questions raised in the said petition. Are questions and allegations relating to impersonation in the Civil Services examination not important? Are queries relating to errors in the application forms to question papers to your website not important? You make an error in the question paper and nobody knows what you did to compensate the candidates. The coaching institutes are making tall and fake claims about their achievements because you are not revealing the data. This is merely a sample from the said petition. Are such

questions useless and will 'disproportionately' divert public resources'? Please read it carefully sir and you will know what it is a wealth of information that you could use also to improve the examination (that is if you really want to improve). IPSC must be held responsible for the malaise that affects the CSE. You cannot shy away from the responsibility. Many queries relate to your errors how can you not read/ reply to them? If Mr. Khanna had read it, many queries in the said petition should have given him sleepless nights (given the enormous public interest issues raised therein)."

Shri Wasi Ul Haque also reduced the number of questions put by him to approximately 110, citing the number of each in the appeal petition. By his order of 18-4-08 Shri K.S. Bariar upheld the response of CPIO, UPSC and dismissed the appeal as below:

"I note that the reply given by the CPIO, UPSC with regard to his requests in the RTI application is appropriate and justified. In view of the above, I do not see any point to intercede to in the matter as solicited by the appellant in his instant appeal."

Shri Wasi Ul Haque has then moved a second appeal before us with the following prayer:

"Keeping the above inexplicable behaviour of the Commission in view, I seek release of information on my RTI petition. I want the Commission to read each and every letter of the petition. This petition has a lot of 'public interest' contained in it. A constitutional authority like the UPSC cannot be so lazy and lacklustre so as not be able to read and respond to 139 pages that deal directly with it's functioning. This booklet has many issues which when revealed to the public will cause a lot of embarrassment to the Commission. Yet the Commission did not even read it. I also want to know how they used my 150 Rupees that I had submitted as application fee. I also want to know why they did not submit a soft copy of the replies as requested."

The appeal was heard on 3-2-2010. The following are present:

Respondents

Shri Prachish Khanna, Dy. Secretary & CPIO.

Shri V. D. Arora, Under Secretary, UPSC.

Shri Naresh Kaushik, Advocate.

Ms. Amita Kalkal Chaudhary, Advocate.

Ms. Aditi Gupta, Advocate.

Although informed of the date of hearing through our notice of 22-1-2010 appellant Shri Wasi UI Haque has opted not to be present.

Learned counsel for respondents Shri Naresh Kaushik submitted that the application was frivolous and vexatious and deserves not only to be dismissed on these grounds but also subjected to costs. In support of the latter argument learned counsel Shri Naresh Kaushik submitted the following documents:

1. Copy of the order of Supreme Court of India **Presidential Election Petition No. 1 of 1997** dated 24.11.07 – **Charan Lal Sahu & Anr. Vs. K. R. Narayanan & Anr.** In this case the Full Bench of the Hon'ble Supreme Court consisting of Justices S.C. Agarwal, G. N. Ray, A.S. Anand, S.P. Bharucha and S. Rajendra Babu, JJ arrived at the following conclusion :

"In Charan Lal Sahu vs. Giani Zail Singh [Supra] this Court, while referring to the Election petition filed by petitioner No.1. had observed:

"It is regrettable that election petition challenging the election to the high office of the President of India should be filed in a fashion as cavalier as the one which characterises these two petitions. The petitions have an extempore appearance and not even a second look, leave alone a second thought appears to have given to the manner of drafting these petitions or to the contentions raised therein. In order to discourage the filing of such petitions, we would have been justified in passing a heavy order of costs against the two petitions, we would have been justified in passing a heavy order of costs against the two petitioners. But that is likely to create a needless misconception that this Court, which has been constituted by the Act as the exclusive forum for deciding election petition whereby a presidential or vice-presidential election is challenged, is loathe to entertain such petitions. It is of the essence of the functioning of a democracy that election to public offices must be open to the scrutiny of an independent tribunal. A heavy order of costs in these two petitions, howsoever justified on their own facts should not result in nipping in the bud a well-founded claim on a future occasion. Therefore, we refrain from passing any order of costs and, instead, express our disapproval of the light-

hearted and indifferent manner in which these two petitions are drafted and filed." [1.7]

In *Mithilesh Kumar vs. Sri R. Venkataraman & Ors.* [supra], this Court had observed:

"While we expect every conscientious citizen eligible to file an election petition to question an election on the grounds prescribed by the Act, we do not wish that any petitioner should make use of this Court as a forum to file a petition without giving adequate thought to its contents and also the provisions of law governing the case merely to seek some cheap publicity. We regret to say that seeing one's name in newspapers everyday has lately become the worst intoxicant and the number of people who have become victims of it is increasing day by day." [537]

In *Mithilesh Kumar Sinha vs. Returning Officer for presidential Election* this Court observed it as follows:

"..... Experience has shown that the solemnity and significance attaching to such petitions has been reduced to a farce by the cavalier fashion in which resort is had to this remedy. The mere fact that the entire gamut of both these petitions is fully covered by several earlier decisions of this Court to some of which these very petitioners were parties shows that the existing provisions are inadequate to prevent such abuse of the process of law." [p.698]

We find that these observations have had no effect. This election petition, which has been jointly filed by the two petitioners, shows no improvement. It suffers from the same defects as the earlier petitions filed by the petitioners. It seems that the petitioners are obsessed with a desire that they should find a place in some Book of Records. They find the temptation to file an election petition after the Presidential election too difficult to resist. It is a matter of regret the petitioner No.1, who happens to be an advocate himself, has been persisting in this past time knowing well that such conduct on his part amounts to an abuse of the process of law. This Court has so far refrained from imposing costs in the election petitions that were filed by the petitioners earlier. It is high time that the petitioners who have persisted in filing this petition in spite of the law laid down authoritatively by this Court in the earlier decisions are saddled with costs.

2. **Mary Angel and Ors. vs. State of Tamilnadu, CRLA No. 570/1990**

announced on 30.5.99. In this case the Division Bench of the Supreme Court consisting of Justices K. Thomas & M. S. Shah, JJ, after detailed

examination on the issue of whether the High Court has jurisdiction to impose exemplary cost of Rs. 10,000/- to be paid by each of the appellant by rejecting a frivolous and factious petition, the learned Justices have arrived at the following conclusion :

“In the result we hold that while exercising inherent jurisdiction under section 482, Court has power to pass ‘such orders’ (not inconsistent with any provision of the Code) including the order for costs in appropriate cases, (i) to give effect to any order passed under the Code or (ii) to prevent abuse of the process of any Court or (iii) otherwise to secure the ends of justice. As stated above, this extraordinary power is to be used in extraordinary circumstances and in a judicious manner. Costs may be to meet the litigation expenses or can be exemplary to achieve the aforesaid purposes.”

DECISION NOTICE

In our decision announced on 19.6.'09 in **Rajinder Singh Vs. CBI – Complaint No. CIC/WB/C/2007/00967** we have decided as follows:

“The issue hinges around the application required to be made for obtaining information u/s 7 (1). Under this clause a CPIO, on receipt of ‘a request’ is expected to deal with it expeditiously when with accompanied with a fee. It is, therefore not open to the applicant under the RTI Act to bundle a series of requests into one application unless these requests are treated separately and paid for accordingly.

In our experience in disposing of appeals that in fact many such have been treated as one application even though they contain a multiplicity of requests. However, we concede that a request may be comprised of a question with several clarificatory or supporting questions stemming from the information sought. Such an application will indeed be treated as a single request and charged for accordingly.”

On examination of the case references submitted by learned counsel for respondent in the present case our view is that neither of these would have a bearing on this specific case before us, and indeed on this Commission, because although these deal with inherent powers, whereas the Presidential Election Petition No. 1 of 1997 deals with the inherent powers of the Supreme Court of

India, the case CRLA No. 570 of 1990 deals specifically with the question involved “*under sec. 482 of the Cr.P.C*”. Sec. 482 of the Cr.P.C. reads as follows:

“Sec. 482 CrPC Saving of inherent power of High Court

Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order this Code, or to prevent abuse of the process of any court or otherwise to secure the ends of justice.”

From this it would be obvious that such a power cannot be exercised by this Commission, which has no criminal powers whatsoever, much less the powers of a High Court, and at best is a quasi judicial authority empowered to function as a Civil Court in certain circumstances. However, in the decision of this Commission, in the file quoted above, that as per section 6 (1) read with section 7 (1) of the Act a request means that the questions and the answers must share an embryonic relationship, the *genus* of the application must be one and sub questions can constitute different species of the same *genus*. Given that for reasons already intimated to appellant Shri Wasi Ul Haque by the CPIO, most of his questions do not constitute ‘information’ as defined in the law and because the remaining, even if they were to be so admitted, are without focus so establishing genus, it is not possible to treat this application despite the painstaking efforts demonstrably put into compiling it, to be a valid request admissible under the RTI Act. For this reason this appeal is dismissed.

Reserved in the hearing, this decision is announced after examination of the rulings submitted by learned counsel on this ninth day of February, 2010. Notice of this decision be given free of cost to the parties.

(Wajahat Habibullah)
Chief Information Commissioner
9-2-2010

Authenticated true copy. Additional copies of orders shall be supplied against application and payment of the charges prescribed under the Act to the CPIO of this Commission.

(D. C. Singh)
Assistant Registrar
9-2-2010