



Central Information Commission

Room No. 305, 2nd Floor, 'B' Wing, August Kranti Bhavan,

Bhikaji Cama Place, New Delhi-110066

Web: www.cic.gov.in Tel No: 26167931

Case No. CIC/SS/A/2012/002467

Dated: 30.04.2013

Name of Appellant : Shri Nemi Chand Jain
Name of Respondent : Directorate General of Foreign Trade
Date of Hearing : 19.02.2013

ORDER

Shri Nemi Chand Jain, hereinafter called the appellant, has filed the present appeal dated 19.6.2012 before the Commission against the respondent Directorate General of Foreign Trade (DGFT), New Delhi for not providing information in response to his RTI-application dated 20.12.2011. The appellant was absent whereas the respondent were represented by Shri Vijay Rajmohan, Jt. DGFT/FAA, Shri Ramanand Meena, Dy. DGFT and Shri Ashish Mohan, Dy. DGFT.

2. The appellant, through his RTI application dated 20/12.2011 has sought information on the following four queries: *"(1) Copy of file notings relating to his letters dated 21.5.2011, 13.6.2011, 28.6.2011 and 9.12.2011 relating to complaint against Shri J.K. Singh and application for review of order No. F-3/001/AM07/DRI/ECA II/A.O. 232 dated 25.5.2009 passed by Shri J.K. Singh, Joint DGFT, Mumbai; (2) Copy of letters received from the Office of CVO, Department of Commerce relating to the complaint against Shri J.K. Singh and copy of file notings relating to the said letter received; (3) Copy of letter received from the Office of Director of Revenue Intelligence relating to review of the*

aforesaid order passed by Shri J.K. Singh and copy of file notings relating to the said letters; and (4) Copy of file notings after 24.8.2011 relating to the review of order dated 25.5.09 passed by Shri J.K. Singh, Jt. DGFT, Mumbai.”

3. After failing to get any response from the CPIO, the appellant filed first appeal on 25.1.2012 before the FAA. The FAA vide his letter No. 18/5/2011-12/ECA-1/4116 dated 26.3.2012 informed the appellant that the file containing the sought information were under process. As soon as the files are available, the requisite information sought by him will be furnished.

4. The appellant in his second appeal filed before the Commission states that there has been denial of information, firstly by the CPIO who did not respond within 30 days and by the FAA who did not provide information on the grounds that the file was under process.

5. During the hearing the FAA states that he was unable to provide information because the file in which the review petition was being processed was under discussion with higher officers and hence it was not possible to furnish the information immediately, especially since it related to a third party and pertains to certain commercial activities of the third party, information which has been requested by the appellant. An interim reply vide letter dated 26.3.2012 was sent in response to the first appeal dated 25.1.2012 stating that the information would be furnished on receipt of the file. The case in brief is that the appellant had a business conflict with his partner and through his RTI application had sought action taken by the respondent on complaints filed by him against his business Partner and his application for review of order No. F-3/001/AM07/DRI/ECA II/A.O. 232 dated 25.5.2009 passed by Shri J.K. Singh, Joint Director General of Foreign Trade, Mumbai. The appellant also wanted copies of letters received from the Office of the Chief Vigilance Officer, Department of Commerce relating to the complaint filed by him against Shri J.K. Singh as well as a copy of the letter received from the Office of Director of Revenue Intelligence, aforesaid order passed by Shri JK. Singh and copy of file

notings relating to review of aforesaid order. The FAA states that he has received back the file from the Director General of Foreign Trade who is the Reviewing Officer and complete information has been provided by the CPIO vide his letter dated 7.2.2013 relating to Point No. 4 of the RTI application. In so far as Point No. 1, 2 and 3 of the RTI application are concerned, on perusal of the file it came to notice that the information called for are not available in the review file, therefore a copy of the RTI application has been forwarded to the CPIO, Vigilance Department of DGFT, HQ vide letter dated 7.2.2013. The CPIO, Vigilance, DGFT vide his letter No. 1/26/2011-Vigilance/111 dated 13.2.2013 provided information on Point No. 1 of the RTI application; on Point No. 2 the CPIO, Vigilance, DGFT stated that since letters dated 3.6.2011, 14.7.2011, 16.8.2011 and 7.8.2012 received from the Office of CVO, Department of Commerce (DOC) relating to the complaint against Shri J.K. Singh have been treated as confidential by Vigilance Section, Department of Commerce, notice u/s 11 of the RTI Act has also been endorsed to the appellant. Further action could be taken only on receipt of response of the CPIO (Vigilance), Department of Commerce; on Point No. 3 the CPIO informed the appellant that Vigilance Section, DGFT (HQ) has not received any letter from the Office of Director of Revenue Intelligence relating to review of the order passed by Shri J.K. Singh.

6. Requisite information on Point No. 4 of the RTI application has been provided by the CPIO, ECA-I vide letter dated 7.2.2013 and CPIO, Vigilance, DGFT has provided information on Point No. 1 and 3 of the RTI application vide letter dated 13.2.2013. The Commission directs that complete information in respect of query at Point No. 2 is to be provided, if no reply has been received from DOC, **within ten days** of receipt of this order. The delay in providing the information has been explained by the FAA that the file was under submission to the Director General, Foreign Trade and on receipt of the said file, required information has been provided to the appellant.

7. Since there has been inordinate delay in replying the appellant and CPIO did not reply at all, which has prima-facie caused a delay of more than 100 days in providing information to the appellant. A separate **show-cause notice** u/s 20(1) of the RTI Act would be issued to the Shri Ashish Mohan, Dy. Director General of Foreign Trade/CPIO asking him to show-cause why a penalty of Rs. 25,000/- should not be imposed upon him.

(Sushma Singh)
Information Commissioner

Authenticated true copy:

(K.K. Sharma)
OSD & Deputy Registrar

Address of the parties:

Shri Nemi Chand Jain,
202, Upasana Apartment,
E-14, Bihari Marg, Banipark,
Jaipur-302016.

Shri Ashish Mohan,
The Deputy Director General of Foreign Trade/CPIO,
Directorate General of Foreign Trade,
Ministry of Commerce & Industry,
Udhog Bhawan,
New Delhi-110001.

The Jt. DGFT & FAA,
Directorate General of Foreign Trade,
Ministry of Commerce & Industry,
Udhog Bhawan,
New Delhi-110001.