

केन्द्रीय सूचना आयोग
Central Information Commission
बाबा गंगनाथ मार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

द्वितीय अपील संख्या / Second Appeal No.:- CIC/MEDCI/A/2019/603239-BJ

Dr. Rohit Jain

...अपीलकर्ता/Appellant

VERSUS

बनाम

CPIO

Medical Council of India

MCI Building, Pocket – 14

Sector – 8, Phase – 1, Dwarka

New Delhi – 110077

...प्रतिवादीगण /Respondent

Date of Hearing : 18.09.2019

Date of Decision : 19.09.2019

Date of RTI application	05.02.2019
CPIO's response	06.02.2019
Date of the First Appeal	07.02.2019
First Appellate Authority's response	15.02.2019
Date of diarised receipt of Appeal by the Commission	Nil

ORDER

FACTS:

The Appellant vide his RTI application sought clarification on 02 points on whether Signing of a Laboratory (Pathology) Report could be considered a practice of modern medicine in India; if yes, then documentary evidence of the same.

The CPIO vide its letter dated 06.02.2019 informed the Appellant that the queries raised by the Appellant were in the nature of eliciting opinion and therefore it did not constitute information as defined u/s 2 (f) of the RTI Act, 2005. Dissatisfied by the response of the CPIO, the Appellant approached the FAA. The FAA, vide its order dated 15.02.2019 concurred with the response of the CPIO.

HEARING:

Facts emerging during the hearing:

The following were present:

Appellant: Dr. Rohit Jain through VC;

Respondent: Mr. Shikhar Ranjan, Law Officer and Dr. Hans Raj Baweja, Consultant;

The Appellant reiterated the contents of the RTI application and stated that **he had sought generic information on whether signing a Laboratory (Pathology) report be considered a practice of Modern Medicine in India which was not provided by the Respondent.** In its reply, the Respondent submitted that the query raised by the Appellant was vague and ambiguous and that being a Doctor registered with the Rajasthan Medical Council, the Appellant ought to be aware about the modern medicine practices in India. **It was also clarified that Pathology was part of Modern Medicine Practice as per the extant Regulations.** The Appellant however contested that the query raised by him in the RTI application ought to have been answered by the Respondent.

The Commission referred to the definition of information u/s 2(f) of the RTI Act, 2005 which is reproduced below:

“information” means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, report, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.”

Furthermore, a reference can also be made to the relevant extract of Section 2 (j) of the RTI Act, 2005 which reads as under:

“(j) right to information” means the right to information accessible under this Act which is held by or under the control of any public authority and includes”

In this context a reference was made to the Hon’ble Supreme Court decision in 2011 (8) SCC 497 (CBSE Vs. Aditya Bandopadhyay), wherein it was held as under:

35..... “It is also not required to provide ‘advice’ or ‘opinion’ to an applicant, nor required to obtain and furnish any ‘opinion’ or ‘advice’ to an applicant. The reference to ‘opinion’ or ‘advice’ in the definition of ‘information’ in section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act.”

Furthermore, the Hon’ble Supreme Court of India in Khanapuram Gandaiah Vs. Administrative Officer and Ors. Special Leave Petition (Civil) No.34868 OF 2009 (Decided on January 4, 2010) had held as under:

6. “...Under the RTI Act “information” is defined under Section 2(f) which provides:

“information” means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, report, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.”

This definition shows that an applicant under Section 6 of the RTI Act can get any information which is already in existence and accessible to the public authority under law. Of course, under the RTI Act an applicant is entitled to get copy of the opinions, advices, circulars, orders, etc., but he cannot ask for any information as to why such opinions, advices, circulars, orders, etc. have been passed.”

7. “...the Public Information Officer is not supposed to have any material which is not before him; or any information he could have obtained under law. Under Section 6 of the RTI Act, an applicant is entitled to get only such information which can be accessed by the “public authority” under any other law for the time being in force. The answers sought by the petitioner in the application could not have been with the public authority nor could he have had access to this information and Respondent No. 4 was not obliged to give any reasons as to why he had taken such a decision in the matter which was before him.”

DECISION:

Keeping in view the facts of the case and the submissions made by both the parties, no further intervention of the Commission is required in the matter.

The Appeal stands disposed accordingly.

(Bimal Julka) (बिमल जुल्का)
(Information Commissioner) (सूचना आयुक्त)

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