

CENTRAL INFORMATION COMMISSION
BLOCK IV, OLD JNU CAMPUS, NEW DELHI 110067

Appeal No.35/ICPB/2006
June 23, 2006

In the matter of Right to Information Act, 2005 – Section 19.

Appellant:	Shri Mahendra Gaur, Jaipur.
Public Authority:	Department of Consumer Affairs Shri C.S. Khurana, Deputy Secretary & CPIO. Ms. Rinchen Tempo, Joint Secretary – Appellate Authority.

FACTS:

1. A short question that has arisen in this appeal is whether “File Notings” are exempt from disclosure under RTI Act. In December 2001, the appellant had filed a complaint before the Department of Consumer Affairs, alleging mal-practices in the sale of 2T oil in Rajasthan. In connection with that complaint and also a similar complaint made earlier, the appellant filed an application on 21.2.2006, seeking for inspection of records maintained by the Department of Consumer Affairs, Controller of Legal Metrology relating to the decision making process on his complaints. While he was given inspection of the related files, the CPIO declined to allow the appellant to inspect the file notings. By a letter dated 21.4.2006 to the CPIO, the appellant brought to the notice of the CPIO that in terms of the decision of this Commission that file notings are not exempt from disclosure. A copy of this letter was addressed to the appellate authority in the form of an appeal. After detailing the factual aspects of this case, the appellate authority disposed of the appeal in the following terms “*It may also be relevant to mention here that DoPT which is the nodal Department for administering the RTI Act is yet to withdraw the clarification available in the FAQs chapter of its website where it has been stated that information “does not include file notings”. As such, till such time as the nodal Department does not indicate otherwise, we would perforce have to continue to exclude file notings from public domain. All other information as sought for by the appellant may be furnished to him in soft copy as desired without payment of charges in view of the delay in the disposal of the original application*”.

DECISION:

2. It is true that the DoPT is the nodal authority in respect of RTI Act and in the usual course, placing reliance on the contents of the Website of that Department would be justifiable. However, the question whether file notings are exempt or not has been put to rest by this Commission in its Decision in *Satyapal Vs TCIL (ICPB/A1/2006)* and this decision is in the website of this Commission. Further, the appellant has also cited this case in his appeal. In terms of Section 19(7) of the said Act, while the decision of this Commission is final and binding on the parties in that case, in the matter of interpretation of the provisions of the Act, the said interpretation is binding on all the public authorities. Therefore, when the Appellate Authority found contradiction in the decision of this Commission and that of the website of DoPT, she should have referred the same either to this Commission or to the DoPT for clarification. Curiously, in her decision, she has ignored to refer to the decision of this Commission even though the appellant has referred to the same in his appeal. Instead by recording “*As such, till such time as the nodal Department does not indicate otherwise, we would perforce have to continue to exclude file notings from public domain*” the appellate authority appears to have made up her mind to continue to ignore the decision of this Commission. This does not commensurate with the position that she holds. For the benefit of the Appellate Authority, I extract the decision of this Commission in Satyapal case :

“As is evident from the Preamble to the RTI Act, the Act has been enacted to vest with the citizens, the right of access to information under the control of public authorities in order to promote transparency and accountability in the working of any public authority. Conscious of the fact that access to certain information may not be in the public interest, the Act also provides certain exemptions from disclosure. Whether file notings fall within the exempted class is the issue for consideration.

Section 2(f) defines information as “Any material in any form, including records, documents, memos, e-mails, opinion, advices, press releases, circulars, orders, logbooks, contracts, reports, 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 or the time being in force”.

Section 2(j) reads : “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 the right to (i) inspection of work, documents, records; (ii) taking notes, extracts or certified copies of document or records; (iii) (iv) “. In terms of Section 2(i) “Record” includes (a) any documents, manuscript and file;

In the system of functioning of public authorities, a file is opened for every subject/matter dealt with by the public authority. While the main file would contain all the materials connected with the subject/matter, generally, each file also has what is known as note sheets, separate from but attached with the main file. Most of the discussions on the subject/matter are recorded in the note sheets and decisions are mostly based on the recording in the note sheets and even the decisions are recorded on the note sheets. These recordings are generally known as “file notings”. Therefore, no file would be complete without note sheets having “file notings”. In other words, note sheets containing “file notings” are an integral part of a file. Some times, notings are made on the main file also, which obviously would be a part of the file itself. In terms of Section 2(i), a record includes a file and in terms of Section 2(j) right to information extends to accessibility to a record. Thus, a combined reading of Sections 2(f), (i)&(j) would indicate that a citizen has the right of access to a file of which the file notings are an integral part. If the legislature had intended that “file notings” are to be exempted from disclosure, while defining a “record” or “file” it could have specifically provided so. Therefore, we are of the firm view, that, in terms of the existing provisions of the RTI Act, a citizen has the right to seek information contained in “file notings” unless the same relates to matters covered under Section 8 of the Act. Thus, the reliance of the CPIO, TCILo on the web site clarification of the Department of Personnel to deny the information on the basis that ‘file notings’ are exempted, is misplaced.”

3. In view of the above, I direct the CPIO to allow the appellant to inspect the file notings as sought for by him free of cost. The appellant has sought for compensation on the ground that he had to incur expenditure to visit Delhi from Jaipur a number of times. I would have found justification in his claim but for the fact that the decision of the appellate authority was based on the website information of the DoPT, even though wrongly, and not with the view to intentionally deprive the appellant of the information sought.

4. It is not the first time that after the decision of this Commission in Satyapal case, a public authority has denied access to file notings on the basis of the website information of DoPT. A few other public authorities have also done so, due to which this Commission has to reiterate again and again its decision that information includes “file notings”. Therefore, to avoid unnecessary appeals which subject citizens to suffer cost and time, I enjoin upon the DoPT to immediately remove its clarification on “file notings” from its web site.

5. Let a copy of this Decision be forwarded to the Secretary, DoPT, by name drawing his attention to para 4 of this decision.

6. Let a copy of this decision also be sent to appellant, CPIO and appellate authority.

Sd/-

(Padma Balasubramanian)

Information Commissioner

Authenticated true copy :

(Prem K. Gera)
Registrar

Address of parties :

1. Shri C.S. Khurana, CPIO & Deputy Secretary, Department of Consumer Affairs, Krishi Bhawan, New Delhi-110001.
2. Secretary, Department of Personnel & Training, North Block, New Delhi.
3. Ms. Rinchen Tempo, Appellate Authority & Joint Secretary, Department of Consumer Affairs, Krishi Bhawan, New Delhi 110001.
4. Shri Mahendra Gaur, B-90, Saraswati Marg, Bajaj Nagar, Jaipur 302015.