Central Information Commission  
Room No. 5, Club Building, Near Post Office  
Old J.N.U. Campus, New Delhi – 110067  
Tel No: 26161997

Case No. CIC/SS/A/2010/000700

Name of the Appellant : Shri S.S. Virk  
(The Appellant was )

Name of the Public Authority : Ministry of Home Affairs,  
North Block, New Delhi

The matter was heard on : 9.9.2010.

ORDER

Shri S.S. Virk, the Appellant, vide his application dated 12.4.2010 sought following information pertaining to certain communications between Government of India and Government of Punjab, under the RTI Act, 2005:-


2. Physical Inspection of all the file notings made by the Hon’ble Home Minister and all other concerned officials on the letter mentioned above sent by Government of Punjab to Ministry of Home Affairs, Government of India.


Ms. Inderjeet Kaur, Director(Police)/CPIO, Ministry of Home Affairs, Government of India, vide letter dated 27.4.2010 replied to the Appellant as follows:-

Please refer to your application dated 12.4.2010 received by this Ministry on 21.4.2010 on the subject mentioned above for details of information relating to disciplinary proceedings initiated against Shri S.S. Virk, IPS (Retd.).

The information requested for cannot be provided in terms of Rule 8(1) (h) of RTI Act, 2005.”

Not satisfied with the reply of CPIO, the Appellant filed an appeal before the First Appellate Authority. Shri D. Diptivilasa, Joint Secretary (Police) & Appellate Authority vide his order dated 26.5.2010 held as follows:

“1. Shri S.S. Virk had submitted an application dated 12.4.2010 under the RTI Act requesting for inspection of documents relating to disciplinary proceedings against him.

2. The CPIO in her reply datged 27th April, 2010 had denied the request of Shri S.S. Virk under section 8(1) (h) of RTI Act, 2005.

3. I have gone through the Appeal of the applicant as well as the reply furnished by the CPIO. The disciplinary proceedings under All India Services (Discipline & Appeal) Rules, 1969 has all the attributes of an investigation. Any divulgence of such information is exempted in terms of section 8(1) (h) of RTI Act, 2005.

4. This is also confirmed by CIC in its decision dated 26.2.2007 (No.CIC/AT/A/2006/00610), on an appeal by Shri Rajeev Shrivastava, Joint Director, Defence Estates, Chandigarh.

5. The reply furnished by the CPIO is found to be in order. The appeal is accordingly dismissed.”

Not satisfied with the reply of FAA, the Appellant filed the present appeal before the Commission.
The Respondents were not present for the hearing in spite of notice issued by the Commission. In the absence of Respondents, the Commission has decided to dispose of the matter on merit.

During the hearing the Appellant submits that he has submitted an application requesting for physical inspection of letter No. 2/60/2007-3H(I)/13810 dated 07.06.2008 sent by Punjab Government to Ministry of Home Affairs and other related documents but he has been denied this information by the Respondent. The Appellant submits that inspection of documents requested by him cannot in any way impede the process of investigation in the disciplinary proceedings against him. During the hearing it was informed that charge-sheet had already been framed and therefore the process of the investigation/enquiry is complete and would not be hampered by allowing the Appellant to inspect the documents as requested in the RTI application.

In Bhagat Singh Vs CIC, the Hon’ble Delhi High Court, observed or follows:-

“Access to information under Section 3 of the Act, is the rule and exemptions under Section 8, the exception. Section 8 being a restriction on this fundamental right, must therefore is to be strictly construed. It should not be interpreted in manner as to shadow the very right self. Under Section 8, exemption from releasing information is granted if it would impede the process of investigation process cannot be a ground for refusal of the information, the authority withholding information must show satisfactory reasons as to why the release of such information would hamper the investigation process. Such reasons should be germane, and the opinion of the process being hampered should be reasonable and based on some material. Sans this consideration, section 8(1) (h) and other such provisions would become the haven for dodging demands for information.”

After hearing the Appellant and on perusal of relevant documents on file, the Commission finds that respondent CPIO and FAA have not, in their respective orders, explained how allowing inspection of the
documents requested for by the Appellant would impede investigation of the case. Therefore, the Commission is of the view that investigation/enquiry into the matter would not be hampered if the applicant is allowed to inspect the documents as requested by him in his RTI application. The Commission directs the Respondent CPIO to allow physical inspection of the documents/file notings as requested for by the Appellant in his RTI application. The directions of the Commission may be complied with within 10 days of receipt of Commission’s directions on mutually convenient date and time.

With these directions, the matter is disposed off on the part of Commission.

(Sushma Singh)
Information Commissioner
9.09.2010