Relevant Facts emerging from the Appeal

Appellant: Mr. Premchand Vimal  
E- 44, Rajiv Nagar, Phase-I,  
Begum Pur, New Delhi-110086.

Respondent: Public Information Officer &  
Dy. Director of Education  
Directorate of Education (GNCTD)  
District – South West A, C-4,  
Vasant Vihar, New Delhi.

RTI application filed on: 24/06/2010  
PIO replied: Not mentioned  
First appeal filed on: Not mentioned  
First Appellate Authority order: 17/08/2010  
Second Appeal received on: 17/09/2010

Information Sought:
1) Copy of the rule under which the Appellant’s 1st ACP was stopped and whether the same was original or fake.
2) Copy of the decision taken on the application dated 09/06/2004 and B) the date by which the decision will be given.
3) Copy of the rule under which the employee’s could be deprived from getting benefits during the enquiry pending against him/her.
4) Whether the Vice Principal had right to do wrong things and copy of the rule under which non-teaching librarian was made school in-charge several times.
5) Copy of the action taken on the complaint dated 04/05/2009.
6) Name of the culprit for the delay of 44 days in payment of salary of 31/03/2009.
7) Copy of the action taken on the letter dated 16/02/2009 and 09/04/2009.
8) Copy of the action taken on the letter dated 17/01/2008.

Reply of the PIO:
Not enclosed.

First Appeal:
Not enclosed

Order of the FAA:
The Appellant is not present. P10/DDE (SW-A) is present. The appellant vide his 1st Appeal dated 26/07/2010 has complained that he is not satisfied with the information provided by the P10/DDE (SW-A) in response to his RTI application dated 26/06/2010 submitted in the office of P10/DDE(SW-A). DDE/P10(SW-A) informed that interim reply was sent to the appellant on 02/07/2010 final information has also been provided to the appellant on 06/07/2010 and 04/08/2010.
DDE/P1O(SWA) is directed to provide the correct and complete information as required by the appellant within 07 days free of cost.
The PIO (DDE/SW-A) was directed to provide complete and correct information to the Appellant within 7 days.

Ground of the Second Appeal:
Non-compliance of the FAA’s order by the PIO. Only queries 2 and 8 have been answered.

Decision:
The appellant has stated that the PIO has not provided information inspite of the order of the FAA. The PIO has not claimed any exemption under Section 8 (1) of the RTI Act, hence there appears to be no grounds for refusal of information. The PIO should provide the information as per the records available. If there is nothing on record with respect to any of the queries, this should be stated.

The Appeal is allowed.
The PIO is directed to provide the complete information available on record to the appellant before 15 December 2010.

From the facts before the Commission it appears that the PIO is guilty of not furnishing complete information within the time specified under sub-section (1) of Section 7 by not replying within 30 days, as per the requirement of the RTI Act. He has further refused to obey the orders of his superior officer, which raises a reasonable doubt that the denial of information may also be malafide. The First Appellate Authority has clearly ordered the information to be given.
It appears that the PIO’s actions attract the penal provisions of Section 20 (1).
A showcause notice is being issued to him, and he is directed give his reasons to the Commission to show cause why penalty should not be levied on him.

He will give his written submissions showing cause why penalty should not be imposed on him as mandated under Section 20 (1) before 20 December 2010. He will also send a copy of the information sent to the appellant and copy of the speed post receipt by which the information was sent to the appellant.

This decision is announced in open chamber.
Notice of this decision be given free of cost to the parties.
Any information in compliance with this Order will be provided free of cost as per Section 7(6) of RTI Act.

Shailesh Gandhi
Information Commissioner
25 November 2010

(In any correspondence on this decision, mention the complete decision number.) (GJ)