Appellant: Mr. M. Archunan,
Inter University Accelerator Center,
Post Box No. 10502,
Aruna Asif Ali Marg,
New Delhi-110067

Respondent (1): Mr. Satish Ahuja
PIO & Under Secretary
University Grants Commission,
UGC, Bahadur Shah Zafar Marg,
New Delhi – 110002

RTI applications filed on: 28/08/2009
PIO replied: No Reply
First Appeal filed on: 05/10/2009
First Appellate Authority order: Not Enclosed
Second Appeal Received on: 12/02/2010
Notice of Hearing Sent on: 03/03/2010
Hearing Held on: 31/03/2010

Information Sought:
Appellant sought information regarding the Office Memorandums, appellant sought the information in a tabular manner:

1. Provide the information whether these O.M.’s are available in the file of UGC or not. That is, “yes”, if available. Otherwise “no” in each the following Column No. 4.
2. Provide that Date Received by the UGC in each of the column no. 5.
3. Whether those O.M.’s are sent/forwarded to the all IUC’s including IUAC by UGC or not. That is, “yes”, if sent/forwarded. Otherwise “no” in each of the column No. 6.
4. Provide the date sent / forwarded by the UGC in each of the Column No. 7.
5. Copy of these O.M.’s if it is sent / forwarded to the all IUC’s including IUAC by UGC along with the copy of the UGC’s O.M.’s or Letters.
6. Say “yes” if it is provided to me otherwise “no” in each of the column No. 8.

PIO’s Reply:
No response from the PIO.

Grounds for First Appeal:
Reply was not provided by the PIO even after 35 days.

Order of the First Appellate Authority:
No response from the FAA.

Grounds for Second Appeal:
The PIO has issued the order for the first appeal, which was also after 35 days of the first appeal made, instead of the First Appellate Authority.
Relevant Facts emerging during Hearing:
The following were present
Appellant: Absent;
Respondent: Mr. Satish Ahuja, PIO & Under Secretary;

The Respondent claims that the RTI Application has not been originally received by the PIO since it possible went to Dr. Surender Singh who is not the PIO. However, the RTI application was taken cognizance of the then PIO Dr. Shakeel Ahmad on 12/11/2009. However, even at that time the information was not provided. The Appellant has given a very simple format in which the information could have very easily provided. The Appellant was only seeking information whether eighteen office memorandums sent by MHRD to UGC have been received by UGC. Instead of providing it in the simple format provided by the Appellant information in bits and pieces was provided on 05/02/2010 and no proper reply in the very simple format provided by the appellant has been provided so far. Section 7(9) of the RTI Act clearly states “an information shall ordinarily be provided in the form it has been sought unless it would disproportionately divert the resource of the public authority.” In the instant case a disproportionate amount has been sent to ensure that no meaningful information has been provided by not providing the information in the format it has been sought by the Appellant. The Respondent agrees with this but states that the person responsible for this was the then PIO Dr. Shakeel Ahmad.

Decision:
The appeal is allowed.

The present PIO Mr. Satish Ahuja is directed to provide the complete information in the format given by the Appellant before 15 April 2010.

The issue before the Commission is of not supplying the complete, required information by the then PIO Dr. Shakeel Ahmad within 30 days as required by the law.

From the facts before the Commission it is apparent that the then PIO is guilty of not furnishing 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. 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.

The then PIO Dr. Shakeel Ahmad will present himself before the Commission at the above address on 06 May 2010 at 11.30am alongwith his written submissions showing cause why penalty should not be imposed on him as mandated under Section 20 (1). He will also submit proof of having given the information to the appellant. If there are other persons responsible for the delay in providing the information to the Appellant the PIO is directed to inform such persons of the show cause hearing and direct them to appear before the Commission with him.

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
31 March 2010

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

CC:
To,
The then PIO Dr. Shakeel Ahmad through Mr. Satish Ahuja, PIO & Under Secretary