

CENTRAL INFORMATION COMMISSION
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File No.

CIC/CC/A/2014/001668/SD

Date of Decision: 28/07/2016

Relevant facts emerging from the Appeal:

Appellant	:	Rajendra Kharkwal Mohanpur Tanakpur Distt - Champavat (UK)
Respondent	:	Joint Director (Admn) & CPIO Staff Officer - 1(Personal) S.T.F. Hirak C/o 56 APO
RTI application filed on	:	03/06/2014
PIO replied on	:	10/06/2014
First appeal filed on	:	01/09/2014
First Appellate Authority order	:	09/09/2014
Second Appeal dated	:	26/09/2014

INFORMATION COMMISSIONER : SHRI DIVYA PRAKASH SINHA

Information sought:

Appellant sought the information related to Road construction works from Tanakpur to Champawat which were undertaken by S.T.F Hirak.

Reasons for Second Appeal:

The CPIO has not provided the desired information.

Relevant Facts emerging during Hearing:

The following were present:-

Appellant: Present on phone.

Respondent: S.K. Bhardwaj, Jt Dir/Admn & CPIO, HQ STF HIRAK(BRO), MOD and Yad Ram Balotia, Asst, HQ DGBR(MOD) present in person.

Appellant stated that he has sought information about work on road from Tanakpur to Champawat undertaken by STF HIRAK. BRO and PWD both are involved in the road construction and he feels that corrupt practices are in play in this project, hence BRO cannot claim exemption under Section 24(1) of the RTI Act.

CPIO submitted that information has been denied to the appellant under Section 24(1) of the RTI Act. Information regarding stretch of road construction work between Tanakpur to Champawat is close to China Border.

DECISION

BRO has been placed in Second Schedule of the RTI Act vide notification No. GSR 347 dated 28/09/2005 by Central Government in exercise of the power conferred by sub section 2 of section 24 of the RTI Act. In view of this, nothing contained in this Act shall apply to the BRO. Section 24(1) of the Act is reproduced below:

- (1) *Nothing contained in this Act shall apply to the intelligence and security organisations specified in the Second Schedule, being organisations established by the Central Government or any information furnished by such organisations to that Government:*

Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this subsection:

Provided further that in the case of information sought for is in respect of allegations of violation of human rights, the information shall only be provided after the approval of the Central Information Commission, and notwithstanding anything contained in Section 7, such information shall be provided within fortyfive days from the date of the receipt of request.

This has been re-asserted by the Hon'ble Supreme Court vide it's decision in Civil Appeal No. 6454 arising out of SLP No. 7526/2009 in **CBSE Vs. Aditya Bandopadhyay** case stating:

''Exclusion of the Act in entirety under section 24 to intelligence and security organizations specified in the Second Schedule even though they may be "public authorities", (except in regard to information with reference to allegations of corruption and human rights violations)''.

The expression ''allegation of corruption'' and ''violation of human right'' is not defined in the Act. It is thus open for the Commission to decide the veracity of allegation on both counts case to case basis. Allegation of corruption and Human Rights violation in this section should be construed to mean **verifiable allegations meaning that some charge of corruption or Human Rights violation is not sufficient in absence of supporting material that such charge in its evidentiary value has strength.** Anyone who utters word 'corruption' or alleges corruption does not become entitled to get information from Public Authorities exempted u/s 24(1). The onus of proving allegation of corruption and human rights violation lies on the appellant.

In light of above, Commission does not agree to the allegation of corruption levelled by the appellant and upholds the submission of the CPIO.

The appeal is disposed of accordingly.

(Divya Prakash Sinha)
Information Commissioner

Authenticated true copy

(Raghubir Singh)
Dy. Registrar/Designated Officer