

PUBLIC GRIEVANCES COMMISSION

(Govt. of National Capital Territory of Delhi)

APPELLATE AUTHORITY

[Under Section 7, Delhi Right to Information Act, 2001]

Date of Hearing : 11.06.2018

Date of Decision : 21.06.2018

Applicant : Sh. R.L. Makhija

Competent Authority : Deputy Commissioner (Rohini Zone),
North DMC

Since the parties involved in the Appeals are common, these various Appeals are being clubbed together for hearing and disposal to avoid multiplicity of the proceedings and effective adjudication.

Background :

Appeal No. 604/2017/PGC/DRTI/NDMC

Appeal No. 605/2017/PGC/DRTI/NDMC

Appeal No. 716/2017/PGC/DRTI/NDMC

Appeal No. 717/2017/PGC/DRTI/NDMC

Appeal No. 719/2017/PGC/DRTI/NDMC

Sh. R.L. Makhija, the appellant vide his above stated five applications dated 26.09.2017 and dated 17.11.2017 under **Delhi Right to Information Act, 2001**, had sought information from the Deputy Commissioner (Rohini Zone), North DMC, Competent Authority notified under the DRTI Act-2001 on total 06 queries.

The appellant had sought information on following 13 points in respect of various residential properties of Rohini (the details given in concerned files).

- 1. Construction on going till now. Please provide the details & copy of sanction of building Plan.*
- 2. How many area / FAR was sanctioned by NDMC. Please provide the details.*
- 3. Whether the property has deposited the House Tax since last three years i.e. 2014-15, 2015-16 & 2016-17.*
- 4. Whether building department had booking regarding the unauthorized construction. If yes, please provide the booking number and date.*

Indraprastha Estate (near ITO), Vikas Bhawan, M-Block, New Delhi-110110,

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5. *Whether any action has been taken regarding the unauthorized construction. Please provide the details.*
6. *Please provide the plot size.*
7. *Basement construction is going on. Whether basement was passed in building sanction plan. Please provide the details.*
8. *As per building bylaws how many meter / feet should be left for the portion / space from the front, back site, left & right site. Please provide the details.*
9. *Whether during the construction of basement owner has violated the MCD circular No. PSC/135/2012 dated 27.03.2012 and Zonal Engineer should certify it. Please provide the certificate if provided.*
10. *Please provide the copy of guidelines / duty of Junior Engineer, Assistant Engineer & Executive Engineer (Building) Zonal.*
11. *How many FAR has been sanctioned by NDMC. Please provide the details regarding each floors & basement.*
12. *Please provide the name of Architect.*
13. *Please provide the details i.e. name of Junior Engineer, Assistant Engineer & Executive Engineer.*

The Competent Authority has not furnished the requisite information to the appellant. Being aggrieved by the same, the appellant filed the above mentioned appeals before the Appellate Authority, Public Grievances Commission.

Proceedings

Both the parties are present and heard. The relevant facts as emerged during hearing are;

Sh. S.P. Dabas, present on behalf of the Competent Authority states that they have not received the above mentioned DRTI applications. He further stated that on receipt of the copy of applications alongwith Appeal notices of the Commission, the requested information has been furnished to the appellant, to which the appellant denied. No proof of dispatch or receipt from the appellant could be furnished by the Competent Authority. A copy of the reply submitted during the hearing has been given to the appellant.

Perused the reply furnished by the Competent Authority. The Commission notes that on most of the points except for point No. 13, the information has been denied stating not available in the desired format or being 3rd party information. Thus, the information provided is incomplete and unsatisfactory. It is nothing but denial of information and deliberate obstruction in free flow of information.

Background :

Appeal No. 607/2017/PGC/DRTI/NDMC
Appeal No. 613/2017/PGC/DRTI/NDMC
Appeal No. 615/2017/PGC/DRTI/NDMC

Appeal No. 616/2017/PGC/DRTI/NDMC
Appeal No. 641/2017/PGC/DRTI/NDMC

The appellant vide his above stated five applications dated 15.09.2017, 25.10.2017 and 03.11.2017 under **Delhi Right to Information Act, 2001**, had sought information from the Deputy Commissioner (Rohini Zone), North DMC, Competent Authority notified under the DRTI Act-2001.

The appellant had sought information on following points in respect of various properties of Rohini (the details given in concerned files)

- (1) *Whether MCD had allowed the amalgamation permission (Two property club in one). Please provide the details.*
- (2) *MCD provide the amalgamation permission for above mention number. Please provide the details.*
- (3) *Whether above mentioned land is DDA flats. Please provide the details.*
- (4) *Whether MCD has booked regarding unauthorized construction. Please provide the details & Booking number with date.*
- (5) *Please provide details how many floors are working currently.*
- (6) *Please provide the details how many floors are sanctioned by MCD.*
- (7) *Whether above mentioned property owner deposited the Conversion charges for last three years from 2014-15, 2015-16 & 2016-17.*
- (8) *Whether during the construction MCD had done any booking regarding the unauthorized construction. Please provide the booking number with date.*
- (9) *Whether above mentioned property owner deposited the House Tax for last three years from 2014-15, 2015-16 & 2016-17.*
- (10) *As per DDA Construction building structure Ground Floor & 1st Floor but 4 floors are working currently, today any accident / casualty who is/are responsible. Please provide the details i.e. Deputy Commissioner, Building EE, AE & JE.*
- (11) *Whether building structure certificate was issued by any engineer. If yes, please provide the copy.*
- (12) *Please provide the details during the construction name of JE, AE, EE & Dy. Commissioner Zonal*

The Competent Authority has not furnished the requisite information to the appellant. Being aggrieved by the same, the appellant filed the above mentioned appeals before the Appellate Authority, Public Grievances Commission.

Proceedings

Both the parties are present and heard. The relevant facts as emerged during hearing are;

The appellant states that inspite of 9 months of waiting, the response from the Competent Authority is yet to reach him.

Sh. P.K. Chauhan A.E. (B), present on behalf of the Competent Authority informed that information has been furnished to the appellant. However, the same was denied by appellant. The respondent handed over the copy of reply to the appellant and to the Commission.

Perused the reply furnished by the Competent Authority. Only the information in respect of queries related with action taken by the MCD against the property and name of officers posted during the question in period has been provided to the appellant. The response in respect of most queries is vague stating not available in the desired format, hence denied.

Background :

Appeal No. 643/2017/PGC/DRTI/NDMC
Appeal No. 644/2017/PGC/DRTI/NDMC
Appeal No. 645/2017/PGC/DRTI/NDMC
Appeal No. 646/2017/PGC/DRTI/NDMC
Appeal No. 649/2017/PGC/DRTI/NDMC
Appeal No. 652/2017/PGC/DRTI/NDMC

The appellant vide his above stated six applications dated 03.11.2017 and 31.10.2017 under **Delhi Right to Information Act, 2001**, had sought information from the Deputy Commissioner (Rohini Zone), North DMC, Competent Authority notified under the DRTI Act-2001 on total 06 queries.

The appellant had sought information on following 12 points in respect of various properties of Rohini (details given in concerned files)

- (1) *Whether MCD has given permission for Amalgation (plot club one). Please provide the details.*
- (2) *Whether MCD building bylaws provides amalgation or not. Please provide the detail.*
- (3) *If yes, please provide the copy of guidelines for amalgation.*
- (4) *Please provide the plot size.*
- (5) *Whether the mentioned property has sanctioned building plan. Please provide the details & each floor for sanctioned FAR.*
- (6) *Whether still parking used for Commercial use as showroom. If yes, please provide the copy of guidelines.*
- (7) *Whether above mentioned property has been booked against the U/A construction. If yes, please provide the booking number and date.*
- (8) *Whether above property owner has deposited the last three years House Tax i.e. 2014-15, 2015-16 and 2016-17. Please provide the details Residential / Commercial.*
- (9) *Whether property owner has deposited the last three year parking charges i.e. 2014-15, 2015-16 & 2016-17.*

(10) *Whether above mentioned property owner has deposited the last three years Conversion charges i.e. 2014-15, 2015-16 & 2016-17.*

(11) *Please provide the name of Junior Engineer, Assistant Engineer and Executive Engineer.*

(12) *Please provide the name of Architect supervising the constructed building.*

The Competent Authority has not furnished the requisite information to the appellant. Being aggrieved by the same, the appellant filed the above mentioned appeals before the Appellate Authority, Public Grievances Commission under Section 7 of DRTI Act - 2001.

Proceedings

Both the parties are present and heard. The relevant facts as emerged during hearing are;

Sh. S.P. Dabas A.E., present on behalf of the Competent Authority informed that information has been furnished to the appellant. However, the same was denied by appellant. No proof of delivery could be furnished by the respondent. The respondent handed over the copy of reply to the appellant during hearing in the Commission.

Perused the reply furnished by the Competent Authority. Except for queries relating to action taken by the MCD against the property and name of officers posted during the question in period, the response in respect of other queries is vague. It is nothing but denial of information and deliberate obstruction in free flow of information.

Relevant facts emerged during the hearing :

The present 16 appeal cases emerged from respective applications filed by the appellant under Delhi Right to Information Act-2001, wherein the appellant had sought details regarding sanction of building plan, action taken against unauthorized constructions, details of House Tax, Conversion Charges, Parking Charges, permission for amalgamation of properties, name of J.E., A.E., E.E posted etc., in the area of Rohini.

The queries regarding house tax, conversion charges, parking charges etc. by the owners of the properties and similar other information from the other offices under the administrative control of the Competent Authority is the responsibility of Competent Authority to collate relevant information from all concerned and furnish the same to the appellant.

As regards 3rd party information, the Commission feels that the reply is unjustified / in appropriate and it appears as if respondents are not willing to furnish the information not otherwise exempted under the Act.

After hearing parties and perusal of documents, the Commission notes a prima facie case of denial of information and causing deliberate obstruction in flow of information. The Commission held that quoting provisions of Section 6 (b) to deny the information without giving justification or reasoned order stating grounds as to how these provisions are applicable is simply not acceptable and clearly amounts to malafide denial of legitimate information.

The Competent Authority must provide reason, by way of speaking order, for rejecting the particular application or denying part information. The Commission further held that not providing the reasons of how the application for information was rejected according to a particular provision of the Act would attract penalties under Section 9 (2) of the Delhi Right to Information Act-2001.

Decision :

Since the information sought in above stated 16 properties listed in 3 parts are quite similar, only property number being different, a combined decision is being issue for disposal of these appeal cases.

At this outset, the Commission notes that no sou-moto disclosure, where it is obligatory on the part of the Competent Authority, has been made by the Respondent / Competent Authority, as envisaged under Section 4 of the Delhi Right to Information Act-2001. The Commission feels that the information sought, ought to would have been available on most of the counts on the website of the Respondent / Competent Authority.

After hearing the parties and perusal of records / documents, the Commission finds inordinate delay in furnishing the information. The Commission further notes prima facie case of causing deliberate obstruction in flow of information and accordingly directed explanation of the Respondent / Competent Authority.

Directions to Competent Authority :

The Competent Authority i.e. Deputy Commissioner (Rohini Zone), North Delhi Municipal Corporation is directed as follows:

- (a) In case the Competent Authority has already given a reply to the appellant in all these matters (Appeals), he should furnish a copy of the reply, sent to the appellant, along with proof of dispatch by Speed Post, to the Commission within one week of receipt of this Order.
- (b) In case no reply has been furnished by the Competent Authority to the appellant in response to his request under Delhi Right to Information Act, the Competent Authority should furnish point-wise reply, specific to the queries of the appellant, within one week of receipt of this Order. Further, it is incumbent upon the Competent Authority to collate the requisite information from concerned offices under his administrative control and provide comprehensive reply to the appellant.
- (c) The Competent Authority should invariably ensure that the reply are sent under his / her signature and seal and indicate to the appellant the name and address of the Appellate Authority / Public Grievances Commission, before whom the Appeal, if any may be filed.

Directions to the Appellant :

If the appellant is aggrieved with no reply received or not satisfied with the information provided by the Competent Authority, he may approach the Commission in Appeal alongwith the application within prescribed time limit.

Notwithstanding, the Competent Authority is directed to exercise due diligence in carrying out functions according to the provisions of the DRTI Act-2001, in this case specifically with reference to the Section 7 of the DRTI Act-2001.

With the above directions, the appeals are accordingly closed at the Commission's end.

(SUDHIR YADAV)

Member,
Public Grievances Commission

Authenticated true copy.

(S. CHAKRABORTY)

Dy. Secretary
Designated Officer

Copy to :

1. The Commissioner,
North Delhi Municipal Corporation,
4th Floor, Dr. S.P.M. Civic Centre
J.L. Nehru Marg,
New Delhi – 110 002.
2. Deputy Commissioner,
Rohini Zone, North DMC,
Near Rajiv Gandhi Cancer
Institute, Sector-5
Rohini, Delhi – 110 085
2. Sh. R.L. Makhija