

Central Information Commission

CIC/AD/C/09/000429

Dated June 8, 2009

Name of the Applicant : **Mr. Ajit Kumar**
Name of the Public Authority : **Lalit Kala Akademi**

Background

1. The Applicant filed RTI application/s dated 19.02.2009 and 26.02.2009 with the CPIO, Lalit Kala Akademi. He sought information on the following points:
 - i) biodata and qualifications/experience qua the Recruitment Rules with regard to Ms. Gunjan Gupta;
 - ii) biodata of contractual employees like Ms. Meghna Vyas, Sr. Preservation Asst., Ms. Pallavi Moitra, Receptionist and Ms. Charu Soni, Asstt. Editor-C;
 - iii) Copy of Recruitment Rules of Sr. Preservation Asstt, Receptionist and Asstt. Editor in Lalit Kala Akademi;
 - iv) Copies of file notings instrumental in the appointment of the aforementioned employees of the Respondent Public Authority;
 - v) Whether the aforementioned Ms. Gunjan Gupta, Ms. Pallavi Moitra and Ms. Charu Soni were interviewed before granting appointment on contract, if so, the dates of interviews and proceedings thereof in respective of the said employees;
 - vi) Whether any of the aforementioned contractual employees did not fulfill the criteria laid down as per the Recruitment Rules? If so, reasons for such employment on contractual basis for indefinite period;
 - vii) Whether there exists any Grievance Cell in the Respondent Public Authority for sexual harassment of women employees, if not reason for its non-existence.
 - ix) Copies of contracts/agreements of the aforementioned employees;
 - x) Information about posts lying vacant in the Akademi as on date etc.

2. The CPIO replied on 30.3.09 stating that the Respondent Public Authority apprehends that the Applicant has been seeking information pertaining to the Respondent Public Authority related to appointments, transfers etc. in order to misuse the said information in maligning the image of the Akademi. Furthermore the CPIO in his response directed the Applicant to furnish photocopies of his residence proof and PAN card number to prove his identity. The CPIO also added that he will greatly appreciate if the Applicant could explain how he was concerned with the affairs of Lalit Kala Akademi.

3. The Applicant filed another complaint on 03.04.2009 before the CPIO against the order dated 30.03.2009, relying on the provisions of Section 6(2) of the RTI Act 2005. The Applicant further stated that he had personally deposited the sum of Rs. 126/- upon being so directed by the Respondent Public Authority vide its letter No. LK/3382/Admn./2009 dated 16.03.2009. Hence the Applicant alleged that the direction of the Respondent Public Authority at a later stage to produce residence proof and PAN card etc is illegal, malicious and violative of the provisions of the RTI Act 2005. Being denied any information and also response to his subsequent communication dated 03.04.2009, the Applicant filed an Appeal on 08.05.09 before the CIC.
4. The Bench of Mrs. Annapurna Dixit, Information Commissioner, scheduled the hearing for June 8, 2009.
5. Mr. L.R. Khatana, Advocate representing PIO, Mr. Bhisham Mirani, Asst. Secretary and Mr. D.K. Banerjee, Consultant represented the Public Authority.
6. The Applicant was present during the hearing.

Decision

7. The argument of the Respondent Public Authority primarily revolved around the identification of the Appellant and the lack of evidence substantiating that the Appellant was a bona fide citizen as per provisions of the Section 3 RTI Act 2005 and hence entitled to the information at all. The Learned counsel representing the Respondent argued that even a verification clause stating that the Appellant was a citizen of India and thus entitled to the information under provisions of the RTI Act could have been considered. Incidentally the Respondent Public Authority also suggested, during the hearing that the information as sought by the Appellant were readily available with them to be provided to the Appellant, upon furnishing of the residence proof and PAN card by the Appellant.
8. The Appellant in his defence stated that firstly the objection, if at all, should have been communicated prior to the deposit of the fees and secondly that admittedly the Appellant had on earlier occasions sought and received information from the same Public Authority without any objection of this nature. Hence the Appellant alleged that the instant direction of the Respondent Public

Authority at this stage, after seeking the deposit of the requisite fees clearly indicates the malafide intention of the Respondent Public Authority.

9. The Commission is of the opinion that the Respondent Public Authority seeking proof of identity from the Appellant specifying that he is a bonafide Indian citizen in terms of Section 3 of the RTI Act 2005, is against the spirit of the RTI Act 2005. The Section 3 of the RTI Act 2005 simply reads as "*Subject to the provisions of this Act, all citizens shall have the right to information.*" and nowhere indicates or implies that an Applicant seeking information under RTI Act 2005 would be required to prove his citizenship. In fact though in many applications the certificate of proof of the Applicant being a bonafide Indian citizen is not provided by the Applicant, the Public Authorities have rarely ever raised this objection. Thus it is clear that in rarest of rare cases, when there arises a doubt about the citizenship of the Applicant, the Public Authorities ask for furnishing of proof, which may at most be an exceptional case and not a rule. In this case, simply spelling of the name as 'Ajit' or 'Ajith' cannot be enough ground to raise such suspicion as to doubt the bonafide citizenship status of the Applicant. The doubt is even more incoherent and inconsistent in the peculiar facts of this case, where the doubts in fact shift to the bonafide of the Respondent Public Authority. The RTI Act 2005 enacted with a view to empower the common citizenry of the country to exercise their right to avail information, should not be abused by the Public Authority to refrain from divulging information by simply exercising dilatory tactics and harassing the information seeker burdening them with legal and technical jargons. The simplicity in the RTI Act is not accidental but purposeful in order that every person may seek the benefit thereof and it should be accordingly observed by the Public Authority. Nothing more in this regard needs to be said except that the Respondent Public Authority is hereby advised not to indulge in such frivolous dilatory tactics and come clean in their functioning.
10. The Commission considered the arguments of both the parties. The objection with respect to the proof of identity of the Appellant is of a technical nature and as is evident in this case, indicative of an afterthought on the part of the Respondent Public Authority. Under these circumstances, the Commission directs that the information as sought by the Appellant (and agreed by the Respondent Public Authority) be provided to him within 10 working days of receipt of this order. The Commission directs the CPIO to show cause as to why a penalty of Rs.250/- per day (Maximum Rs.25,000/-) should not be levied on

him for not responding to the RTI application within the stipulated period as prescribed under the RTI Act. Reply to reach the Commission before 22nd of June 2009 failing which appropriate legal action shall follow.

(Annapurna Dixit)
Information Commissioner

Authenticated true copy:

(G.Subramanian)
Asst. Registrar

Cc:

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