



प्रधान सीमा शुल्क आयुक्त (सामान्य) कार्यालय

OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS (GENERAL)

नवीन सीमा शुल्क भवन, बलार्ड इस्टेट,

NEW CUSTOM HOUSE, BALLARD ESTATE,

मुंबई/MUMBAI- 400 001

[टेली फोन नं/ .Tel. No. (022) 22634330 फैक्स नं/Fax No (022)22757416]

फा सं : RTI APPEAL/GEN/DS/73/2018-19 आदेश तिथि : 20.03.2019

जारी करने की तिथि : 20.03.2019

आदेश संख्या : 73/2018-19

द्वारा पारित : डॉ. दीपक शर्मा .

संयुक्त सीमा शुल्क आयुक्त

सूचना का अधिकार अधिनियम के प्रथम अपीलीय प्राधिकारी

प्रधान सीमा शुल्क आयुक्त (सामान्य) का कार्यालय

नवीन सीमा शुल्क भवन,

बेलाड इस्टेट, मुंबई- 400 001

प्रस्तावना

- 1) यह प्रति उस व्यक्ति के प्रयोग के लिए निःशुल्क है जिसके लिए यह पारित किया गया है।
- 2) सूचना का अधिकार अधिनियम 2005 धारा की 19 (3) के तहत इस आदेश के विरुद्ध अपील, आदेश पारित करने की अंतिम तिथि या आदेश प्राप्ति की तिथि से 90 दिनों के भीतर, केन्द्रीय सूचना आयोग, नई दिल्ली में की जा सकती है।
- 3) इस आदेश में प्रस्तावना सहित कुल 04 पृष्ठ सम्मिलित हैं।

BRIEF FACTS OF THE CASE

Subject: - Appeal filed by Shri Revendra, under Section 19(1) of the Right to Information Act, 2005 against CPIO's Order No. RTICG/GEN-285/2018-19 dated 15.02.2019.

This is an order passed in the case of an appeal dated 18.02.2019 received in this office on 20.02.2019, filed by Shri Revendra (hereinafter referred to as the Appellant) against the order of the CPIO bearing F.No. RTICG/GEN-285/2018-19 dated 15.02.2019

Briefly the facts of the case are that the Appellant residing at 105, Pashine CHS, Plot No. 11, Sector 19, Panvel Matheran Road, Near Union Bank ATM, Panvel – 410206 had sought following information under the Right to Information Act, 2005 vide his RTI application dated 17.01.2019, received in RTI General, NCH, Mumbai on 17.01.2019, the same are reproduced as under:-

"Please see letters dated 15.02.2017, 27.03.2017 and 28.12.2018 attached with this application with reference to the above letters kindly give me following information

- 1) Certified copy of Action Taken report on letters dated 15.02.2017 and 27.03.2017 please give copy dully attested by Honorable Commissioner of Customs, Mumbai Zone-I.
- 2) Certified copy of the noting side and correspondence side of the file with file no in which the said letter mentioned in point no 1 above were put up to the competent authority, please give copy dully attested by Honorable Commissioner of Customs, Mumbai Zone-I.
- 3) Certified copy of Action Taken report on letter dated 28.12.2018 please give copy dully attested by Honorable Commissioner of Customs, Mumbai Zone-I.
- 4) Certified copy of the noting side and correspondence side of the file with file no in which the said letter mentioned in point no 3 above were put up to the competent authority, please give copy dully attested by Honorable Commissioner of Customs, Mumbai Zone-I.
- 5) AS the said attached letters are related to the rights of the SC/ST Candidates, please give me certified copy of the Order/ Tribunal Order/ Boards Order regarding provision of action taken on the respective officer/officers who is/are failed to take action on the letters regarding rights of SC/ST Candidates to the competent authority, kindly give me copy dully attested by Honorable Commissioner of Customs, Mumbai Zone-I.
- 6) What are the provisions of Atrocities Law followed/ implemented in the offices/ Premises of Mumbai Customs, kindly give me copy dully attested by Honorable Commissioner of Customs, Mumbai Zone-I."

The CPIO/RTI (General), NCH, Mumbai vide his Order F. No. RTICG/GEN-285/2018-19 dated 15.02.2019 has disposed of the same, with respect to information sought by the Appellant in the RTI application which is reproduced as under:-

"Point No. 1 to 4 : The information sought are not available in material form.

Point No. 5 to 6 : The information sought is incomprehensible / not clear, as applicant has not mentioned clearly."

Aggrieved by the CPIO's above said reply, the applicant Shri Revendra has filed appeal dated 18.02.2019 and the same was received in this office on 20.02.2019.

GROUND OF APPEAL

Aggrieved by the CPIO's above said reply, the applicant Shri Revendra has filed the present appeal on the following grounds –

1. *Refused access to Information Requested.*

PERSONAL HEARING

The personal hearing was granted to the Appellant on 28.02.2019 or 01.03.2019 during working hours. The Applicant appeared in person on 01.03.19, he requested that he may be provided the information which he has asked in the RTI application.

FINDINGS

I have gone through the RTI application dated 17.01.2019 received in this office on 17.01.2019, CPIO's reply dated 15.02.2019 and appeal application filed by the Appellant dated 18.02.19 received in this office on 20.02.2019.

It has been observed that the appellant has filed this appeal against reply of CPIO, the information sought by the appellant with respect to point nos 1, 2, 3 and 4 is not available in material form. The information sought by the appellant with respect to point nos. 5 and 6 is incomprehensible as the appellant has not mentioned it clearly.

The Hon'ble Supreme Court in decision dated 09/08/2011 in the matter of CBSE & Anr. Vs. Aditya Bandopadhyay & Ors. (C.A. No. 6454 of 2011) held:

"35..... But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non- available information and then furnish it to an applicant.....

67..... The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritizing information furnishing, at the cost of their normal and regular duties"

Further in CIC's judgement CIC/AT/A/2006/00045 dated 21.04.2006 in case of Dr. D. V. Rao Vs Shri Yashwant Singh, APIO & Deputy Secretary (A), Department of Legal Affairs, New Delhi also states that the provisions of the RTI Act, 2005 does not cast on the public authority any obligation to answer queries in which attempt to elicit answers to questions with prefixes, such as Why, What, When and Whether as such information does not qualify to be defined as "information" u/s 2(f) of RTI Act, 2005.

ORDER

In view of the above, I uphold the order of the CPIO and reject the appeal filed by the appellant as per the provisions of the RTI Act, 2005.

A handwritten signature in black ink, appearing to be 'Dr. Deepak Sharma', with the date '20/3/19' written below it.

(DR. DEEPAK SHARMA)
FIRST APPELLATE AUTHORITY
JT. COMMISSIONER OF CUSTOMS (G),
NEW CUSTOM HOUSE, MUMBAI.

Copy to :

1. Sh. Revendra,
101, Pashine CHS, Plot No. 11, Sector 19,
Pavel Matheran Road, Near Union Bank ATM,
Pavel - 410206
2. The CPIO RTI (G), NCH, Mumbai
3. Office Copy