

**UpSC Vs. Tarsem Lal**

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**Court :** Delhi

**Decided On :** Oct-22-2013

**Judge :** V. K. Jain

**Appellant :** UpSC

**Respondent :** Tarsem Lal

**Advocate for Pet/Ap. :** Mr. Naresh Kaushik, Ms. Aditi Gupta, Mr. Vardhman Kaushik

**Judgement :**

\* IN THE HIGH COURT OF DELHI AT NEW DELHI % Date of Decision:

22. 10.2013 + WP(C) No.4661 of 2011 UPSC Through: ..... Petitioner Mr. Naresh Kaushik, Ms. Aditi Gupta & Mr. Vardhman Kaushik, Advs. versus TARSEM LAL ..... Respondent Through: None. CORAM: HON'BLE MR. JUSTICE V.K.JAIN

JUDGMENT

**V.K.JAIN, J.**

(Oral) The respondent before this Court applied to the CPIO of the petitioner-Union Public Service Commission (for short UPSC) seeking the following information:

(i) Please provide a copy of the minutes of the Commissions meeting held on 24 June, 2010. (ii) Under what circumstances Shri Biresh Kumar, Additional Secretary presented/presided over the meeting when he is complainant in some cases viz. Shri Tarsem Lal, Deputy Secretary. (iii) What safeguards were adopted to ensure Shri Biresh Kumar, IAS does not influence the proceedings of the Commission. (iv) Please provide copies of the notings of the Commissions relevant file pertaining to the processing of the disciplinary case of Shri Tarsem Lal, Deputy Secretary leading to the issue of the Commissions advice to DOP&T. (v) Also allow to inspect the relevant file of the Commission and vigilance file No.C13019/2/2006-Vigilance, F25/41/2005(RC&P)/SPC-I and 1/346(80)/2004-R-1/SPC-1. (vi) A copy of the reference dated 9.11.2009 made by DOP&T seeking advice of the Commission in the said disciplinary case.

2. The information, however, was not supplied by the CPIO except to the extent of informing that the meeting referred to at serial No.(ii) was held under the chairmanship of the Chairman, UPSC as per normal procedure. Being aggrieved from the reply furnished to him by the CPIO the respondent preferred an appeal which came to be rejected by the First Appellate Authority. The respondent thereupon filed a second appeal before the Central Information Commission (for short Commission) which, vide impugned order dated 13.5.2011 directed supply of information in respect of items at serial Nos.(i), (iv) & (v). The Commission also felt that the action of the PIO in not furnishing information on the aforesaid points attracted the penal provisions of Section 20 (1) of the Right to Information Act, 2005 and, therefore, issued a show cause notice to him as to why the penalty be not levied on him. Vide subsequent order dated 1.6.2011 the Commission, on recording the statement of the counsel for the petitioner that they intended to challenge the order dated 13.5.2011, kept the issue of penalty on the CPIO in abeyance. Being aggrieved from the orders dated 13.5.2011 and 1.6.2011 the petitioner is before this Court.

3. The respondent has not put appearance despite having been duly served. I have accordingly heard the learned counsel for the petitioner and examined the record.

4. As regards information at serial No.(i) is concerned, the learned counsel for the petitioner states that the respondent wanted a copy of the minutes only to the extent it pertained to the advice of the petitioner in the matter of disciplinary proceedings against him. He further states that at the time the information was sought the disciplinary proceedings had not been finalised and, therefore, the aforesaid information was not supplied. He also states that the said information has since been supplied to the respondent. In view of the said statement no order needs to be passed with respect to the information mentioned at serial No.(i) of the application of the respondent.

5. As regards the information sought at serial Nos.(iv) & (v), it appears that the respondent is seeking the copies of the office notings recorded in the file of UPSC as well as the correspondence exchanged between the UPSC and the Department in which the respondent was working. The respondent also seems to be seeking inspection of the file in which the matter was dealt with by the petitioner.

6. As regards copies of file notings and correspondence exchanged between the UPSC and the Department which seeks its advice, this Court vide order dated 10.10.2013 passed in WP (C) No.4079/2013 titled UPSC Vs. G.S. Sandhu & connected matters took the view that - (i) the copies of office notings recorded in the file of UPSC as well as the copies of the correspondence exchanged between UPSC and the Department by which its advice was sought, when sought by a person to whom the said notings and correspondence pertain, have to be provided to him after removing from the notings and correspondence, (a) the date of the noting and the letter, as the case may be; (b) the name and designation of the person recording the noting and writing the letter and; (c) any other indication in the noting and/or correspondence which may reveal or tend to reveal the identity of author of the noting/letter, as the case may be. It was further directed that if the notings and/or correspondence referred above contains personal information relating to a third party, such information will be excluded while providing the information sought by the applicant.

7. In view of the aforesaid decision, the writ petition is disposed of by modifying the order passed by the Commission to the extent that the petitioner shall supply to

the respondent within four (4) weeks from today, copies of the office notings recorded in the file of UPSC as well as copies of correspondence exchanged between UPSC and the Department by which the advice was sought after removing therefrom (a) the date of the noting and the letter, as the case may be; (b) the name and designation of the person recording the noting and writing the letter and; (c) any other indication in the noting and/or correspondence which may reveal or tend to reveal the identity of author of the noting/letter, as the case may be. It is further directed that if the notings and/or correspondence in question contain personal information related to a third party such information shall also be excluded while providing information sought by the respondent. The respondent shall also be entitled to inspection of the files containing the said notings and correspondences, but, only after excluding (a) to (c) above, therefrom.

8. Considering the ground on which information was denied to the respondent, I am of the view that no penalty in terms of Section 20 (1) of the RTI Act needs not be imposed upon the CPIO of the petitioner. The proceedings initiated by the Commission against the CPIO are, therefore, dropped. The writ petition stands disposed of. OCTOBER22 2013 bmesh W.P.(C) No4661 of 2011

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