

**OFFICE OF THE APPELLATE AUTHORITY, under RTI Act,
HIGH COURT OF MADHYA PRADESH, BENCH INDORE**

RTI Appeal No.-01/2020

SMT. BANOBHI WD/O HANIF KHOKHAR APPELLANT

VS.

SHRI RAJESH SHARMA DEPUTY REGISTRAR, H.C. BENCH AT INDORE
STATE PUBLIC INFORMATION OFFICER..... RESPONDENT

Order

(Delivered on 19 March 2020)

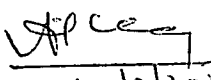
1. This appeal has preferred u/s 19 (1) of the RTI, Act 2005 by the appellant Smt. Banobi Wd/o Hanif Khokhar, R/o Lohar Mandi, Daudpura, Burhanpur (M.P.) being aggrieved by the facts that she has not been supplied the sought information by her RTI application dated 09/01/2020 which should have been provided by Shri Rajesh Sharma, Dy. Registrar-cum-State Public Information Officer, High Court of Madhya Pradesh, Bench at Indore.

2. The brief facts which lead to file this appeal are as under:-

Smt. Banobi Wd/o Hanif Khokhar, R/o Lohar Mandi, Daudpura, Burhanpur (M.P.) had sent a RTI application dated 09/01/2020 through registered post addressed to SPIO, Shri Rajesh Sharma, Dy. Registrar-cum-State Public Information Officer, High Court of Madhya Pradesh, Bench at Indore, requesting therein to provide following information:-

“प्रकरण क्रमांक एम पी 838/2018 “अ रहमान व अन्य वि- एम.एस सार्थक रियल बिल्ट प्रा. लि. व अन्य में हुई आज दिनांक (09/01/2020) तक की कार्यवाही”

The appellant sought information “Copy of proceedings in case MP No. 838/2018 in the case Abdul Rehman and others Vs. M/S Sarthak Real Built Pvt. Ltd. and others.”


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3. SPIO has filed his written argument, stating therein he never received such application as sent by the appellant Smt. Banobi, such RTI application through registered post was not received to him. Aforesaid RTI application sent by appellant through registered post was delivered at this Bench Registry on 14.01.2020, which was received by inward clerk of High Court of M.P. Bench at Indore, It is duty of the Inward clerk to sent such application to the SPIO, but wrongly he had sent such application in the W.P. Section, in that section it was received by Mr. S.K. Dubey, Senior Judicial Assistant through Dak Book on 17.01.2020, but Mr. S.K. Dubey, Senior Judicial Assistant had also not sent such application to SPIO and he kept unnecessary that application in his possession till 26.02.2020. It is grave negligence on the part of both the employees of this bench. It is also stated that as per Rule 8 (1) an applicant is not entitled to get such information through the RTI. She can get such information by paying copying fees in the copying section as per rules.

4. Following point of determination were arises:-

1. *Whether the appellant is entitled to get questioned third party information through RTI ?*
 2. *Whether the conduct of SPIO is unjustified and malafide and deserves to be penalized by imposing cost and penalty upon the SPIO .*
5. After perusal of the whole record, it is found that appellant had sent the RTI Application through registered post, receipt of which is Exhibit P/1. which was delivered at High Court of M.P., Bench Indore in the Inward Section on 14.01.2020 by track consignment of department of post Govt. of India which is enclosed as Exhibit P/2, un-doubtfully it is official duty of the inward clerk to sent the paper under disposal and other related documents to the various concerned sections within reasonable time.

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It is also apparently clear that aforesaid RTI application was addressed to SPIO, therefore it should be prompt duty of the inward clerk to send it to the SPIO, but erroneously he had sent such application in the W.P. Section, it was received by Mr. S.K. Dubey, Senior Judicial Assistant on 17.01.2020 but Mr. S.K. Dubey, Senior Judicial Assistant also failed to perform his official duty and he never sent the concerned application to the SPIO Now in the above circumstances it seems that the conduct of SPIO seems to be absolutely bonafide and is in good faith as per provided under section 19 of the RTI Act, therefore, it will not be justified to impose penalty or any other punishment upon SPIO. Although as previously mentioned both erring employees of this institute are liable for Disciplinary Action.

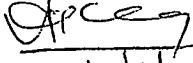
6. Now looking to the appellant RTI Application, it is pertinent to mention here that such information in the form of proceedings/copy of proceedings of case no. MP 838/2018 Abdul Rehman and Others. Vs. Ms Sarthak Real Built Pvt. Ltd and Others, Now question arises that such information may be provided to her by SPIO or not ?
7. But rule 8 (1) of the High Court of M.P. RTI Rules 2006 specially provided that SPIO is not liable to provide any information which can be obtained under the provisions of chapter XVIII of the M.P. High Court Rules 2008.
8. In the case of **Chief Information Commissioner Vs. High Court of Gujrat and Ors. (Civil Appeal No. 1966-1967 of 2020** arises out of SLP (c) no. 5840/2015 judgment dated 04.03.2020 it was held that:-

“Hon’ble Apex Court held that information to be accessed/certified copies of the Judicial side is to be obtained through the mechanism provided under the High Court Rules and provisions of the RTI Act shall not be

resorted to. Hon'ble Apex Court also held that one must apply under the court rules to get certified copies and court documents."

9. In the light of aforesaid citation, I come to the conclusion that the contention of the respondent regarding sought information is liable to reject. The appellant is not entitled to get information under RTI Act. Therefore this appeal is without any substance, it is liable to be dismissed.
10. Consequently this appeal is dismissed. Appellant is free to obtain certified copies of concern orders and other proceedings under the Rule 8 (1) of High Court of M.P Rules, I am further of the opinion that appellants RTI application was not decided by SPIO, due to the gross negligence of the inward clerk and Senior Judicial Assistant Mr. S.K. Dubey, therefore I strongly recommend to take appropriate disciplinary action against these erring employees of this institution.

Copy of this order be sent Principal Registrar, High Court of M.P. Bench at Indore, for necessary action and information. A copy of this order be also provided free of cost to the appellant and also to the SPIO for information and necessary action.


19/12/2020

(ANIL VERMA)

APPELLATE AUTHORITY