

# CENTRAL INFORMATION COMMISSION

(Room No.315, B-Wing, August Kranti Bhawan, Bhikaji Cama Place, New Delhi 110 066)

**Prof. M. Sridhar Acharyulu (Madabhushi Sridhar)**

**Central Information Commissioner**

**CIC/SA/A/2016/001176**

**Mahavir Singh v. Patiala House Court**

**Important Dates and time taken:**

RTI/PIO: 21-1/20-2-16(30)	FAA Order: 14-3-2015	2 <sup>nd</sup> Appeal: 21-4-2016
Disposed of	Hearing: 24-06-2016	Decided on: 28-6-2016

Appellant: Present.

Public Authority: Absent.

## **FACTS:**

2. The appellant filed an RTI for information pertaining to details of proceedings on a criminal case with FIR No. 192/12 dated 09.09.12 u/s 451/323/506/34 if IPC, in Court No. 23, Patiala House Court, New Delhi, on his complaint that he was physically attacked. He gave details of case, names of accused as Virendra Singh, Satya Prakash, Ravindra, Suresh, Jagdish and asked the following questions:

- a) Details of proceedings conducted in court after filing of charge-sheet in October-November, 2012
- b) On how many dates, the accused persons namely Virendra Singh, Satya Prakash, Ravindra, Suresh, Jagdish appeared in the court?
- c) How many dates were given so far? Give details.
- d) What is the time-limit for framing charges in such cases?

e) The reason for giving a long date in the said case as the case is pending for more than three years?

3. The CPIO collected information from assistants of Ld. MM-05, NDD, PHC, ND Shri Sunil Kumar Sharma's Court, in which inspection of files was offered as answer. Seeking specific answers to five of his questions he filed first appeal.

4. The First Appellate Authority, Mr. Deepak Garg, Special Judge on 14-3-2016 noted that the dates which have been given by the court concerned in the said case, as per the information received from the Ahlmad (Court staff) have already been conveyed by the PIO to the applicant/appellant.

5. The FAA has rightly pointed out that being a complainant, the appellant had right to inspect the judicial file and know what all proceeding has taken place in the said case till date and who all were appearing as accused in the said case and how many dates have been given by the court in the said case. FAA said: "Instead of doing that, he has preferred to file the present application under the RTI Act to know the said particulars. Since the information sought relates to judicial proceedings, it is exempt, as stated in rule 7(vi) of Delhi District Courts (Right to Information) Rules, 2008. Further the information regarding the time limit for framing of charge and why long date has been given in the said case is 'non-existent' and hence the same is also exempt under Rule 7 (vii) of the said Rules". He further said that information sought for amounts to also analysing the information for the applicant, which does not form part of any existing record and hence the same is exempt under Rule 7(ix) of the said Rules. Finally, finding no merits in appeal, FAA has dismissed it. Text of Rule 7(ix) of Delhi District Court (Right to Information) Rules, 2008. The text of this rule is:

7. Exemption from disclosure of information: The Public Information Officer or the Assistant Public Information Officer may not provide the information to the applicant on the following grounds:

..... (ix) The information amounts to analyzing the information for the applicant which does not form part of any existing record.

6. According to him, the only answer that could be denied by the Court is “why long date has been given?” The FAA claimed that such information did not exist with them and hence could not be given, he also stated that answering this question would amount to analysing the information available.

7. The open and public trial is the significant feature of judiciary that upholds transparency. The petition for adjournment also adjudicated in open. Most of the times, the Magistrates give reasons for long adjournment. Problem arises when the long dates are given without giving reasons. The party affected by this long date will not be in a position to know the reasons for ever, because one cannot ask information about judicial process or details of exercise of judicial discretion under RTI Act.

8. It is the professional duty of the judicial officer/court of law to give reasons for giving long next date. Lack of reasons raises several questions. First do not give reasons, then, deny the information under RTI because ‘not existing’. This means taking undue advantage of deficiency. The rule that seeker of justice should come with clean hands is a tested principle of justice. An order without reasons is not ‘clean’.

9. The Law Commission in its 230<sup>th</sup> Report, made recommendations based on suggestions made by the Hon’ble Shri Justice Asok Kumar Ganguly, a Judge of the Supreme Court: There must be full utilization of the court working hours. The judges must be punctual and lawyers must not be asking for adjournments, unless it is absolutely necessary. Grant of adjournment must be guided strictly by the provisions of Order 17 of the Civil Procedure Code, which says:

1. **Court may grant time and adjourn hearing.**- (1) The court may, **if sufficient cause** is shown, at any stage of the suit **grant time to the parties** or to any of them, and may from time to time adjourn the hearing of the Suit **for reasons to be recorded in writing:**

Provided that **no such adjournment shall be granted more than three times** to a party during hearing of the suit.

(2) **Costs of adjournment**—in every such case the court shall fix a day for the further hearing of the suit, and shall make such orders as to **costs occasioned by the adjournment** or such higher costs as the court deems fits:

Provided that,—

- (a) when the hearing of the suit has commenced, it shall be continued from day-to-day until all the witnesses in attendance have been examined, unless the court finds that, for the **exceptional reasons to be recorded by it, the adjournment** of the hearing beyond the following day is necessary,
- (b) no adjournment shall be granted at the request of a party, except where the **circumstances are beyond the control** of that party,
- (c) the fact that the pleader of a party is engaged in another court, shall not be a ground for adjournment,
- (d) where the illness of a pleader or his inability to conduct the case for any reason, other than his being engaged in another court, is put forward as a ground for adjournment, the court shall not grant the adjournment unless it is satisfied that the party applying for adjournment could not have engaged another pleader in time,
- (e) where a witness is present in court but a party or his pleader is not present or the party or his pleader, though present in court, is not ready to examine or cross-examine the witness, the court may, if it thinks fit, record the statement of the witness and pass such orders as it thinks fit dispensing with the examination in chief or cross-examination of the witness, as the case may be, by the party or his pleader not present or not ready as aforesaid.

10. The Code of Civil Procedure and this Order mandates that every magistrate shall record reasons, exceptional reasons, in writing for granting adjournment. It also limits the adjournments to three and not beyond.

11. We should realize that adjournments, even if they are in favour of clients, are not in favour of the system. In a number of regulatory cases, there is no real need for appeals or adjournments. Given the huge backlog of cases, practical ways and means need to be thought of, to solve such problems. Ethics of lawyers has also become questionable. There is a Bar Council that has to look after ethics of lawyers, but it has rarely taken action against tainted lawyers. Everything becomes customary and loses meaning.

12. The Bombay High Court in the case of ***CCE vs Techno Economic Services Pvt Ltd-*** 2010 (255) ELT 526 (Bom) observed that in spite of engaging multiple advocates, adjournments are sought, which result in payment of heavy professional charges to the advocates appearing for the department.

13. Supreme Court in **Noor Mohammed vs. Jethanand** on 29.1.13 highlighted the havoc of delay caused by adjournment. SC sought the Chief Justices of High Courts to evolve a mechanism to avoid such unjustified delay to speed up the course of litigation. Bench of K.S. Radhakrishnan, Dipak Misra, in this case cited earlier Judgment of SC full bench, saying:

The processual law so dominates in certain systems as to overpower substantive rights and substantial justice. The humanist rule that procedure should be the handmaid, not the mistress, of legal justice compels consideration of vesting a residuary power in judges to act ex debito justitiae where the tragic sequel otherwise would be wholly inequitable. ... Justice is the goal of jurisprudence — processual, as much as substantive.”  
(<https://indiankanoon.org/doc/22786783/>)

14. M/S Shiv Cotex vs Tirgun Auto Plast P.Ltd.& Ors, SC observed:

“Is the court obliged to give adjournment after adjournment merely because the stakes are high in the dispute? Should the court be silent spectator and leave control of the case to a party to the case who has decided not to take the case forward?”  
<https://indiankanoon.org/doc/872844/>

15. The Madras High Court observed in the case of **Unit Traders vs. Commissioner of Customs** 2012 (281) ELT 659 (Mad.) (<https://indiankanoon.org/doc/1225060/>) that when there is a deliberate absence on the date of hearings the plea of denying natural justice is not admissible.

16. Former CJI, Justice R M Lodha, on his very first day in office strongly conveyed that hearing in cases would not be adjourned on the mere asking of lawyers. “The culture of adjournment has to go. Seeking adjournment of scheduled hearing of cases at the drop of a hat must go...”.

17. The onus is now on the Bar and the litigants to ensure that adjournments are not sought on frivolous grounds and all attempts are made to ensure speedy disposal of matters.

18. RTI Act, 2005, Section 4(1)(C) imposes an obligation on public authorities to publish all relevant facts while formulating policies or announcing their decisions which affect public and (d) says “provide reasons

for its administrative or quasi-judicial decisions to affected persons”.

19. One of the there are three important reasons for mounting pendency is indiscriminate adjournments, (Government becoming a litigant to fight them with their money and not filling vacancies are other two), for which both bar and bench need to share responsibility.

20. If the magistrate does not give reasons for the adjournment, where he should for that? He is asking for them under RTI Act. Is it not the responsibility of the magistrate, the public authority as per the law, to give reasons as per Section 4(1) (c) and (d)?

21. The courts should have a mechanism or system or discipline that every petition for adjournment, should lead to speaking order. Like every common man in this country, the appellant is also right in demanding reasons for long adjournments. Several seminars, workshops, Law Commission reports questioned the indiscriminate adjournment orders that results in delay and eventually denial of justice.

22. The Commission requires the public authority, the Courts in Patiala House and every court to recognize the right of every client to know why hearing of his case is adjourned for a long date and provide reasons to the client in the relevant order as part of their voluntary disclosure duties both under Code of Civil Procedure and Right to Information Act. All the orders of the courts, number of them and reasons for adjournment in each case should be made available on website to fulfill the obligation under Section 4.

23. The Commission directs the respondent authority to facilitate inspection of the entire file pertaining to FIR 192/12 and provide copies of desired documents at Rs.2/- per page, within 20 days from the date of receipt of this order.

(M. Sridhar Acharyulu)  
Information Commissioner

Authenticated true copy

Deputy Registrar

Order copies handed over to the parties present in th hearing, free of cost.

Addresses of the parties:

1. The PIO under the RTI Act, , RTI Cell, Govt of Delhi

District & Sessions Judge, New Delhi District

Patiala AHouse Courts, New Delhi-110011

2. Shri Mahavir Singh

House No.520,Sector-8, R.K. Puram,

New Delhi-110022