

केन्द्रीय सूचना आयोग
Central Information Commission
बाबा गंगनाथ मार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi - 110067

द्वितीय अपील संख्या / Second Appeal No.:- CIC/MCULT/A/2020/116107 - UM
CIC/MCULT/A/2020/116106 - UM
CIC/MCULT/A/2020/116109 - UM
CIC/MCULT/A/2020/116112 - UM

Mr. Dhavalkumar Kirtikumar Patel

....अपीलकर्ता/Appellant

VERSUS
बनाम

CPIO,
National Mission for Manuscripts,
Indira Gandhi National Centre for the Art,
Janpath Building, Opp. BSNL Office,
New Delhi - 110001

CPIO
Bhogilal Leherchand Institute of Indology
Vijay Vallabh Smarak Jain Temple Complex,
20th KM, G.T Karnal Road, P.O Alipur
Delhi-110036

CPIO,
Bharat Itihas Sanshodhak Mandal
1321, Vishrambag Wada Sadashiv Peth Rd,
Perugate Sadashiv Peth, Pune
Maharashtra-411030

CPIO,
O/O The Director Intach
Intach Conservation Institute
B-42, Nirala Nagar, Lucknow-226020

CPIO,
Vrindavan Research Institute
Raman Reti, Vrindavan
Pin-281121

Date of Hearing : 04.10.2021/28.10.2021/29.10.2021
Date of Decision : 05.10.2021/28.10.2021/29.10.2021

File No.	RTI	CPIO	FA	FAO
CIC/MCULT/A/2020/116107	01.11.2019	Not on Record	08.02.2020	Not on Record
CIC/MCULT/A/2020/116106	01.11.2019	Not on Record	08.02.2020	Not on Record
CIC/MCULT/A/2020/116109	01.11.2019	Not on Record	08.02.2020	Not on Record
CIC/MCULT/A/2020/116112	01.11.2019	Not on Record	08.02.2020	Not on Record

ORDER

FACTS

The Appellant vide his RTI application sought information on 07 points, as under:-

- A. Total number of manuscripts of institute catalogued by National Manuscript Mission (NMM).
- B. List of Manuscripts catalogued by NMM with the information on the following fields for each manuscript in a single Microsoft Excel / PDF / access / database file (or whatever format institute stores its database in) in DVD.
 1. State
 2. District
 3. Repository
 4. Title
 5. Other Title
 6. Author
 7. Commentary
 8. Commentator
 9. Scribe
 10. Language1
 11. Language2
 12. Language3
 13. Script
 14. Script 2
 15. Script 3
 16. Complete / Incomplete
 17. Subject
 18. Bundle number
 19. Manus number
 20. Folios

etc.

Dissatisfied due to non-receipt of any response from the CPIO, the Appellant approached the FAA. The order of the FAA, if any, is not on the record of the Commission. Thereafter, the Appellant filed a Second Appeal before the Commission with a request to provide correct and complete information.

HEARING:

Facts emerging during the hearing:

The following were present:

Appellant: The appellant attended the hearing.

Respondent: The respondent Shri Wachspati Pandey, BLII attended the hearing.

The Appellant reiterated the contents of the RTI application and submitted that the reply from the Department was not received to him. The appellant further informed that the digitization of Manuscripts of National Mission for Manuscripts (NMM) was a fully Government funded project to Institute. Further, the respondent stated that the report of NMM for the year 2017-18 pp (55-56) is categorically stated that the NMM has digitized the required information. The appellant also submitted that the information asked for is held by a non-government organization but substantially financed by the funds for a project by the Government.

The Respondent present during the hearing informed the Commission that the BLII is a Private Institute and it's a non-governmental organization and not funded either directly or indirectly by the Government. The respondent further submitted that BLII is not a Public Authority as per RTI Act. Hence, it is not covered by the RTI Act.

INTERIM DECISION:

Keeping in view the facts of the case and the submissions made by the appellant, and the documents available on record, the Commission observes that the Notice of Hearing was not sent to the CPIO, National Mission for Manuscripts by the Registry. Therefore, in the interest of justice, **the matter is adjourned to 28.10.2021 at 12.10 pm.** The Commission further directs the Registry of this Bench to issue a fresh notice to all the parties in the matter.

HEARING on 28.10.2021:

Facts emerging during the hearing:

The following were present:

Appellant: The appellant attended the hearing.

Respondent: The respondent Shri Wachspati Pandey, BLII attended the hearing. The respondent from NMM was not present despite notice.

The Respondent present during the hearing reiterated the submissions of the last hearing and informed that the CPIO, NMM presence is mandatory in these matters. However, the respondent from NMM was not present despite notice.

INTERIM DECISION:

Keeping in view the facts of the case and the submissions made by both the parties, and the documents available on record, the Commission observes that the respondent from National Mission for Manuscripts (NMM) was not present despite notice. The Commission, therefore, in the interest of justice, grants one last opportunity to the CPIO, NMM, to enable him to make his submissions in the matter. **Therefore, the matter is adjourned to 29.10.2021 at 01.45 PM.**

HEARING on 29.10.2021:

Facts emerging during the hearing:

The following were present:

Appellant: The appellant attended the hearing.

Respondent: The respondents Shri Pratapanand Jha, Director, NMM, Shri Sanjay Monga, CPIO, NMM and Shri Wachspati Pandey, BLII attended the hearing. The respondent from VRI, IICI and BISM were not present despite notice.

The Appellant reiterated the contents of the RTI application and submissions, he said he had earlier applied for getting the same information from the National Manuscript Mission (NMM) via an earlier RTI application but the Honorable Commission in its order denied him the information on the ground that the NMM and private institutes were under a contractual agreement that though the NMM had digitized the manuscripts owned by the institutes they won't be able to share those manuscripts in public domain without the institute's permission.

While deposing in the hearing the Respondent, NMM, submitted that the Institutions work independently under their respective management, as per their rules and regulations. Further, NMM informed that it only helped these institutions in Conservation, Cataloguing and Digitization of their collection of manuscripts and so had

no role in the decision-making process of these Institutions. The NMM also informed that the Institutions are free to disseminate copies of digital manuscripts as per their rules and regulations.

The Appellant countered the agreement saying that since the manuscripts were digitized by the NMM at the expense of Government exchequer it was bound to share them in public domain for manuscript and heritage researchers like him in national interest under the RTI law.

In response the NMM submitted that they had digitized around three lakh manuscripts so far which was only three per cent of the total manuscripts belonging to the private institutions and if they break the agreement between them and the private repositories and share the manuscripts without their permission then the NMM would invite their opposition and digitization work would suffer.

However, the NMM said that by persuading the institutions they had been able to put 30,000 of the total three lakh manuscripts on their website so far and were persuading the repositories to allow them to share more. When queried by the commission that the digitized manuscripts were a national property and when the NMM would be able to put all the three lakh manuscripts in public domains for the benefit of the researchers the respondent said it would take a long time and appealed to the commission not pass an order that could obstruct the digitization work in future.

The Appellant stuck to his argument that as an Indology researcher he had the right to access the manuscripts which had been digitized with government funds. He also said that he had been trying to get access to the manuscripts since 2014 and had approached the Commission only after all his efforts failed.

DECISION:

Keeping in view the facts of the case and the submissions made by both the parties and also after perusing the documents available on record, the Commission observes that these manuscripts, though belonging to Private Institutes, were digitized by the NMM at

the expense of Public Exchequer. Moreover, the Commission also observes that the said manuscripts are national property and the appellant is a Sanskrit Scholar who wants the information for reasons of research and in larger public interest. The respondent, however, said that they have an agreement with the Institutes whose manuscripts they had digitized, according to which the digitized manuscripts can be made public or shared by the NMM only with the permission of the Private Institutes who own the manuscripts. But the appellant said that the official purpose of the NMM's digitization project for which Government is spending funds is to bring these centuries old manuscript in public domain.

The Commission takes into account the deposition of all parties and directs the NMM to put in public domain the around 3 lakhs manuscripts (according to the respondent) which it has digitized so far within a period of one year from the date of receipt of this order. Further, the commission directs the NMM to allow the appellant official access (including downloading) of 30,000 manuscripts it has already put in public domain out of the total around 3 lakhs manuscript digitized so far. The second part of the order involving the appellant may be executed in a span of one month from the date of receipt of this order. The appellant will bear downloading cost which he had offered to bear during the course of hearing. The above directions shall be complied with under the intimation to the Commission within a period of four weeks from the date of receipt of a copy of this order.

(Uday Mahurkar) (उदय माहूरकर)
(Information Commissioner) (सूचना आयुक्त)

Authenticated true copy
(अभिप्रमाणित एवं सत्यापित प्रति)

(R. K. Rao) (आर. के. राव)
(Dy. Registrar) (उप-पंजीयक)
011-26182598 / drtoic8@cic.nic.in
दिनांक / Date: 29.10.2021

1. Mr. Dhavalkumar Kirtikumar Patel