

CENTRAL INFORMATION COMMISSION

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

Prof. M. Sridhar Acharyulu (Madabhushi Sridhar)

Information Commissioner

CIC/SA/A/2015/001769

Nand Lal v. PIO, Department of Legal Affairs

Important Dates and time taken:

RTI: 08.04.2015	Reply: 14.05.2015	Time : 26 days
FAA: 14.06.2015	FAO: 31.07.2015	Time : 47 days
SA: 13.11.2015	Hearing: 18.01.2016	Decision: 11-03-2016
Result: Posted for compliance on 11th April 2016, at 2.30 pm.		

Parties Present:

1. Appellant is present. Ms. Poonam Suri, Deputy Legal Adviser, represents Public authority.

FACTS:

2. Appellant sought to know whether the notaries are required to capture the relevant details of all notarial acts performed by them in the format prescribed by Notarial Register or are some of the notarial Acts exempted from being recorded in the notarial register etc. He also sought certain copies of extracts of notary registers. PIO on 08.05.2015 provided para-wise reply. In his first Appeal, FAA on 31.07.2015 directed to provide the required information

specifically and may also make efforts for getting the record for inspection. Claiming non-furnishing of information, appellant approached the Commission.

Decision:

3. The appellant, among four points, wanted serial numbers of first and last acts performed by Notary Smt. Meena Sharma from 2008 to 2013, from the register for each year, and also asked for certified photo copies of all the sheets from these registers containing first and last acts for these years. The CPIO answered on point 1 and 2. For 2 & 3, it was stated that public authority was not the custodian of such records and then said, they wrote to Smt. Meena Sharma Notary Public, asking her to furnish the same. The CPIO stated that all the available records have been provided to the appellant. She also stated that some of the old records were eaten by the termite and the same could not be provided.

4. First Appellate Authority Mr J. S. Yadav, Joint Secretary and Legal Advisor, gave a detailed order on 31.7.2015, wherein there was no mention of records being eaten away by termites. It noted that in earlier RTI application also the appellant could not get the information, in spite of CIC order dated 11.6.2015, since there was no response from the concerned Notary. Authority ordered to facilitate inspection.

5. The contention of termite attack appears to be an 'after thought' as that was not mentioned anywhere anytime earlier. If true, it is pathetic to note that such an important department like "Legal Affairs" comes up with an explanation that it could not give information as records were eaten away by termite. It sadly reflects the state of notary/legal records. Notary Public is an important public functionary which documents certain activities for the purpose of legal consideration of transactions in the court of law. If notaries claim that their records are not produced to regulatory or contend that they are eaten away by termite, it gives rise to serious suspicion about the genuineness of concerned notary transactions, which the public authority is duty bound to check.

6. The Public authority and the notary are under a legal duty to protect and preserve such records/registers. If records are truly eaten away the termite, they owe an explanation to the people why they failed to prevent it. They also have a duty to give (i) list of records damaged by termite; (ii) list of those survived termite attack and (iii) partially damaged records. If termite attack is claimed by the notary republic, the genuineness of same has to be verified by the regulatory. If it was found to be wrongful claim the public authority should have taken necessary action against persons responsible for same. Section 4(1)(a) and (b) imposed an obligation on notary and legal affairs department (public authority) to publish three lists. It was not done so far, hence there is a genuine doubt that registers might have been deliberately caused to disappear and being covered up blaming termite. If it is true they should show the remains of the termite eaten records.

7. Ms. Poonam Suri CPIO wrote to Smt. Meena Sharma, Advocate and Notary, on 8th May 2015 seeking compliance of CIC's earlier order on 20.2.2015 and information as sought under this RTI application. CPIO did not inform commission whether any response was given to this letter and action was initiated by the public authority on non-response. It is relevant here to note that appellant wrote to first appellate authority that Ms. Meena Sharma refused to divulge information.

8. The Commission directs respondent authority

(i) to furnish

a) list of Notary registers damaged by termite,

b) list of those survived termite attack

c) partially damaged registers,

(ii) to furnish report of inquiry and action taken report on loss of registers due to termite, along with the names of notaries and officers responsible for this serious negligence, whether the notary, the custodian of their registers, if reported to the CPIO about termite attack, along with relevant papers, what action was taken,

(iii) to produce remains of registers damaged by termite before the commission.

9. Commission considers Smt. Meena Sharma as deemed PIO, and directs her to show cause why maximum penalty should not be imposed against her for not facilitating inspection of records through public authority as ordered by First appellate authority on 31.7.2015 and not giving any response to letter dated 8th May 2015.

10. The Commission directs Smt. Meena Sharma to furnish the certified copies of extracts from the notary registers as sought under points 3 and 4 of the RTI application.

11. The public authority and Smt. Meena Sharma are directed to explain why Commission should not direct the Department of Legal Affairs and the Notary Public, Smt. Meena Sharma to give suitable compensation to the appellant.

12. All the above directions shall be complied with by 10th April 2016.

13. The second appeal is posted for compliance on 11th April 2016, at 2.30 pm.

(M. Sridhar Acharyulu)
Information Commissioner

Authenticated true copy

(U. C. Joshi)
Deputy Secretary

Addresses of the parties:

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2 . Shri Nand Lal,

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