BEFORE DR. GITA RAWAT, JOINT SECRETARY & FIRST APPELLATE AUTHORITY

(Under Section 19 of RTI Act, 2005)
MINISTRY OF LAW & JUSTICE: DEPARTMENT OF LEGAL AFFAIRS
ROOM NO. 408, 'A' WING, SHASTRI BHAWAN, NEW DELHI 110001

Appeal No.21(251)/2014-IC

Date: 17.04.2014.

In the matter of

Shri Ashok Kumar Jain, P-7, Green Park Extension, New Delhi-110016

Appellant

Versus

Central Public Information Officer Ministry of Law & Justice Department of Legal Affairs Shastri Bhawan NEW DELHI – 110001

Respondent

Date: 17.04.2014

ORDER

The appellant has filed an appeal on 12.4.2014 received on 16.4.2014 under Section 19 of the RTI Act for not getting the information furnished by the CPIO, the respondent vide letter N0. 21(251)/2014 dated 03.04.2014.

Brief facts of the case:

- The appellant vide his application dated 10.3.2014 received on 10.3.2014 sought information relating to MCX, Mumbai.
- The respondent has collected the information from the concerned sections of this Ministry and sent the reply to the appellant vide letter No. 21(251)/2014-IC dated 03.04.2014.
- Being aggrieved with the information of the respondent the appellant has filed an appeal received on 16.4.2014.
- I undersigned have been appointed as Appellate Authority in the matter on.
 After perusal of the facts of the case it appears that no hearing is required in
 this matter.

Observation

- On perusal of the record it appears that the information furnished by the respondent vide letter dated 3.4.2014 is the substantive response for the information asked by the applicant in the original application.
- 6. I have assessed the facts and circumstances of the case and come to the conclusion that the CPIO, the respondent has acted as per provisions of respondent. A copy of reply of respondent may kindly be served to the appellant.
- The appellant may kindly note that since the proceeding has been closed, no further hearing may be conducted in this matter. Moreover, if there is any grievance against the order of the Appellate Authority, he may file second appeal before the Hon'ble CIC sitting at 2nd Floor, August Kranti Bhawan, Bhikaji Cama Place, New Delhi 110066(within 90 days) i.e period as prescribed under the provision of RTI Act, 2005.

(DR. GITA RAWAT) 7-4-14

Joint Secretary & Appellate Authority Date: 17.04.2014

Copy to:

- Shri Ashok Kumar Jain, P-7, Green Park Extension, New Delhi-110016
- Smt. Asha Sota, CPIO/Under Secretary, Deptt. of Legal Affairs.

(DR. GITA RAMAT)
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First Appellate Authority
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By Speed Post

FTS-No.21(251)/2014-IC Government of India Ministry of Law & Justice Department of Legal Affairs IMPLEMENTATION CELL

> Shastri Bhawan, New Delhi. Dated 03.04.2014

To

Shri Ashok Kumar Jain, P-7, Green Park Extension, New Delhi-110 016.

Subject: -Information under RTI Act, 2005.

Sir.

I am to refer to your letter dated 10.03.2014 (received on 10.03.2014) on the subject mentioned above and to say that as per the practice of this Department advices are tendered on the file referred to and same is returned to the concerned Administrative Ministry/Department and form part of their record. Therefore, the requisite information may be obtained from the concerned administrative Department/Ministry.

2. Dr.(Smt.) Gita Rawat, Joint Secretary & Legal Adviser, Ministry of Law & Justice, Department of Legal Affairs, Room No. 408, 'A' Wing, 4th floor, Shastri Bhawan, New Delhi-110001, Tel No. 23384777, is the Ist Appellate Authority. The period of limitation for filing the

Yours faithfully,

(K. Ginkhan Thang) Deputy Secretary & Central Public Information Officer

Tel. No.23384706.

FTS No. 1276/14/Adv. A Department of Legal Affairs Advice 'A' Section

PUC is an OM FTS 21(251)/2014/C dated 15.03.2014 received on 21.03.2014 from the Implementation Cell forwarding therewith a copy of RTI application dated 10.03,2014 of Shri Ashok Kumar Jain seeking information under the RTI Act, 2005. 2. The Applicant has requested the following information:

- - Copies of file noting in related correspondence(Multi Commodity

 - Copies of Opinion submitted to concerned minister or ministries. (iii)
 - Copy of legal Opinion given by our Department in respect to publication of rules and byelaws of (MCX) Mumbai.
- With regard to information sought by the application, it is submitted that as per the practice of this Department advices are tendered on the file referred to it and same is returned to the concerned administrative Ministry/Department and form part of their record.
- 4 The above does not appear to be barred under the RTI Act, 2005 and the CAPIO may like to take appropriate action as per the provisions of the RTI Act, 2005.

25.3.14

Superintendent (Legal) 26.03.2014

By hand/Fax/Speed Post/Regd. Post/Courier

To, Dr.(Smt.) Gita Rawat, Joint Secretary & Legal Adviser, Ministry of Law & Justice, Department of Legal Affairs, Room No.408 'A' Wing, 4th Floor, Shashtri Bhawan, New Delhi-110001 21 (25)) 2014 12 23.50 16 04 14

SUBJECT: FIRST APPEAL U/S 19 OF THE RIGHT TO INFORMATION ACT, 2005

Madam,

1. Name & address of the appellant;

: Ashok Kumar Jain, P-7, Green Park Extension New Delhi-

 Name & address of the Central Public : Information Officer against the decision of whom this appeal is being preferred; CPIO, Ministry of Law & Justice, Govt., of India, New Delhi

3. Brief facts leading to the appeal;

I requested CPIO, to supply me:-

- Copies of file noting & related correspondence, (Multi Commodity Exchange of India Ltd., (MCX), Mumbai if any, in this subject.
- Copy of opinion submitted to the concerned Minister or Ministries.
- Copy of legal opinion given by your Department in respect to Publication of Rules & Bye-laws of Multi Commodity Exchange of India Ltd., (MCX), Mumbai also, if any. (copy of application enclosed)
- This appeal is being preferred against a deemed refusal,

CPIO has not supplied me any information/document in this connection, which are the property and record of Ministry of Law & Justice Department, Govt. of India.

Prayer or relief sought here in this appeal:-

Information sought as explained at item no.3 above be ordered to be supplied to me within the time stipulated under Section 19 of the RTI Act.

Verification

Verified on this 11th April, 2014 that the contents of the appeal are true and correct to the best of my knowledge & belief and nothing has been concealed there from.

Yours faithfully,

(Ashok Kumar Jain) P-7, Green Park Extension, New Delhi-110016

Encl:

1) Copy of RTI Application dated 10.03.2014

 Copy of RTI reply No.FTS-No.21(251)/2014-IC dated 03.04.2014 of Ministry of Law & Justice, Department of Legal Affairs, Implementation Cell.

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F.No.9/2/2014-CD Government of India Ministry of Finance Department of Economic Affairs

New Delhi, January , 2014

To

Shri Ashok Kumar Jain, P-7, Green Park, Extension New Delhi-110016.

Subject:- Reply to the application under the RTI Act 2005.

Sir,

With reference to your RTI application dated 07.10.2013, received by the undersigned on 23.12.2013 from Shri D.C Devgune, Under Secretary & CPIO, Department of Consumer Affairs vide the OM No. 22/21/2013-IT dated Dec., 13, a copy of the file noting (one page) and correspondence (three pages) are enclosed as desired.

2. In case you are not satisfied with the aforesaid reply, you may prefer an appeal before Sh. Lekhan Thakkar, Appellate Authority and Dy. Secretary (CD), Department of Economic Affairs, Ministry of Finance, North Block, New Delhi within 30 days of receipt of this reply.

Yours faithfully,

(K. N. Mishra)

Under Secretary (CD) and CPIO

Ashok Kumar Jain

P-7, Green Park Extn., New Delhi-110016

Tel: 011-26192964, M-09810031181 e-mail: ashok.jain@yahoo.com

By Fax/Speed Post/Regd.Post

Date: 10.03.2014

Shri Inder Kumar (IS& LA) The CP10 Ministry of Law & Justice, Govt., of India,

New Delhi

Information Required Under the Right to Information Act, 2005-Regarding Department of Consumer Affairs, Government of India.

Sir,

I have received copy of file noting from the Ministry of Finance vide its letter no.F No.9/2/2014-CD dated January 2014 New Delhi, (copy of the letter & its enclosed file noting annexed herewith marked-A & B) in which it is stated that "the proposal is already under examination in the Ministry of Law & Justice in another file. This file noting relates to Multi Commodity Exchange of India Ltd., (MCX), Mumbai, regarding publication of Recognition in State Gazette".

Keeping in view of the above letter & file noting as stated above please provide me the following information from your good self under the Right to Information Act, 2005:-

- Copies of file noting & related correspondence, if any, in this subject.
- Copy of opinion submitted to the concerned Minister or Ministries.
- 3. Copy of legal opinion given by your Department in respect to Publication of Rules & Byelaws of Multi Commodity Exchange of India Ltd., (MCX), Mumbai also, if any.

I am enclosing herewith 3 IPO of Rs.10/- each. One for being mandatory fee & the other Two for cost of information.

Thanking You, Yours faithfully,

(Ashok Kumar Jain)

Encl: 1) Copy of letter stated above A & B

4) P.O. of Rs. 10/- vide no. 16. 5. 6. 23 12

No. 12/3/2003 - IT (Part file)

5 -

FR may please be seen.

This case relates to the reply received from FMC enclosing a copy of the letter dated 1st July 2013 of MCX regarding publication of notification relating to recognition of Multi Commodity Exchange of India Limited (MCX) in the State Gazette

 The case is exclained in page No.2 for the letter received from MCX which is placed at Flag "X".

Submitted for information please

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F.No. 24/1/2008-IT
Government of India
Ministry of Consumer Affairs, Food & Public Distribution
Deptt of Consumer Affairs
IT Desk

Shastri Bhawan, New Delhi Dated 27 th September, 2013

OFFICE MEMORANDUM

Subject : Notification dated 5.9.2013 circulated by Cabinet Secretariat as per Note Dated regarding transfer of work in respect of Forward Markets Commission - Transfer of documents relating thereto.

The undersigned is directed to refer to Cabinet Secretariat's Note No. 1/22/2/2013-Cab dated 06.9.2013 circulating therewith a copy of Notification dated 5.9.2013 on the subject mentioned above and to transfer the following documents (In original) to the Department of Economic Affairs for further necessary action at their end. Legal Opinion on the recognition to the Multi Commodity Exchange of India Limited, Mumbai Kindly acknowledge recest of the same This issues with the approval of competent authority Encls: As above (D.C. Devgune) Under Secretary to the Govt. of India Secretary, Ministry of Finance, Department of Economic Afairs North Block, New Delhi

Government of India Department of Consumer Affairs (IT Desk)

Shastri Bhawan, New Delhi-110001

Subject: Legal opinion on the recognition to the Multi Commodity Exchange of India Limited, Mumbai.

Department of Legal Affairs may kindly refer to their Note No. FTS No. 2866/LS/13, dated 08.08.2013 on the subject mentioned above and the requisite information are as under:-

(i) A copy each of the complaints is enclosed.

(ii) We may intimate that the statement of objects and reasons of the Notification are that the objects of the Notifications was to recognize the MCX, Mumbai on permanent basis to do forward trading in all the commodities in which Section 15 is applicable. The reason to publish the Notification was that it was in the interest of trade and also in the public

interest to do so.

(iii) The specific legal issues are to advise as to whether due to nonof the Notification dated 26.09.2003 in the Official Gazette of the State of Maharashtra the operations of MCX from 2003 to 2012 become illegal? If so, what actions can be taken against MCX?

(iv) The reference is made from the miscellaneous file having lot of other representations on futures trading. Therefore it le file system could not be maintained. However, it was been no eference.

rigation do not relate to litigation (v) The matter on the aforemention between Forward Markets Commission (FMC) Vs. Central Electricity

Regulatory Commission (CERC Simultaneously, there is another sue of non-publication of bye laws and rules of MCX before common g trading in the market. In this regard, a 39/MD-I(PF)/7599, dated 15.5.2013 from FMC

In view of the above, it may be submitted that Ministry of Law and Justice may kindly advice on the following issues:

whether due to non-publication of the Notification dated 26.09.2003 in the Gazette of the India, the operations of MCX from 2003 to 2013 become illegal? If so, what actions can be taken against MCX?. whether due to non-publication of the bye laws and rules in the Gazette of India, the operations of MCX from 2003 to 2006 become illegal? If so, what actions can be taken against MCX ?.

> (D. C. Devgune) Under Secretary to the Govt. of India Tel fax No:23387359

Ashok Kumar Jain F.C.A.

P-7, Green Park Extn., New Delhi-110016 Tel: 011-26192964, M-09310031181 e-mail: ashok.jain@yahoo.com

By e-mail/Fax/Speed Post/Regd. Post

To,
Dr.(Smt.) Gita Rawat,
Joint Secretary & Legal Adviser,
Ministry of Law & Justice, Department of Legal Affairs,
Room No.408 'A' Wing, 4th Floor, Shashtri Bhawan,
New Delhi-110001

Date: 15.04.2014

Sub: FIRST APPEAL U/S 19 OF THE RIGHT TO INFORMATION ACT, 2005

Madam.

On 12.04.2014, I have sent first appeal to you vide Speed Post against order of CPIO of Ministry of Law & Justice, Govt. of India, New Delhi.

In this appeal I have stated that the copy of letter no.FTS-No.21(251)/2014-IC dated 03.04.2014of Ministry of Law & Justice, Department of Legal Affairs, Implementation Cell is enclosed.

Unfortunately, the same has not been sent along with the appeal. I am sending herewith copy of the Appeal along with this letter under reference.

Kindly treat this as a part of appeal & oblige.

Thanking you,

Yours faithfully,

(Ashok Kumar Jain)

Encl: 1) Copy of Appeal

2) Copy of RTI Application dated 10.03.2014

3) Copy of RTI reply dated 03.04.2014

PASCHIY 3)

Super relation

IMPLEMENTATION CELL FTS Dy. No. 413 Date 23-04-19

Appeal.

By hand Fax/Speed Post/Regd, Post/Courier

Date: 12.04,201

Dr.(Smt.) Gita Rawat, Joint Secretary & Legal Adviser, Ministry of Law & Justice, Department of Legal Affairs, Room No. 408 'A' Wing, 4th Floor, Shashtri Bhawan, New Delhi-110001

SUBJECT: FIRST APPEAL U/S 19 OF THE RIGHT TO INFORMATION ACT, 2005

Madam,

Name & address of the appellant;

Ashok Kumar Jain, P-7, Green Park Extension New Delhi-

110016.

Name & address of the Central Public : Information Officer against the decision of whom this appeal is being preferred;

CPIO, Ministry of Law & Justice, Govt., of India,

New Delhi

Brief facts leading to the appeal;

I requested CPIO, to supply me :-

- 1. Copies of file noting & related correspondence, (Multi Commodity Exchange of India Ltd., (MCX), Mumbai if any, in this subject.
- 2. Copy of opinion submitted to the concerned Minister or Ministries.
- 3. Copy of legal opinion given by your Department in respect to Publication of Rules & Bye-laws of Multi Commodity Exchange of India Ltd., (MCX), Mumbai also, if any. (copy of application enclosed)
- This appeal is being preferred against a deemed refusal,

CPIO has not supplied me any information/document in this connection, which are the property and record of Ministry of Law & Justice Department, Govt. of India.

Prayer or relief sought here in this appeal:-

Information sought as explained at item no.3 above be ordered to be supplied to me within the time stipulated under Section 19 of the RTI Act.

Verification

Verified on this 11th April, 2014 that the contents of the appeal are true and correct to the best of my knowledge & belief and nothing has been concealed there from.

Yours faithfully,

(Ashok Kumar Jain) P-7, Green Park Extension, New Delhi-110016

1) Copy of RTI Application dated 10.03.2014

2) Copy of RTI reply No.FTS-No.21(251)/2014-IC dated 03.04.2014 of Ministry of Law & Justice, 37 SC 80371NG 4170103

Department of Legal Affairs, Implementation Cell.

ED1013154551. Counter Not1.0P-Code:AS-Te:CR.02TA RAAAT DELFI. PIN:11020 From AS-044, V41 ---



FTS-No.21(251)/2014-IC Government of India Ministry of Law & Justice Department of Legal Affairs IMPLEMENTATION CELL

> Shastri Bhawan, New Delhi. Dated 03.04.2014

To

Shri Ashok Kumar Jain, P-7, Green Park Extension, New Delhi-110 016.

> Subject: -Information under RTI Act, 2005.

Sir,

I am to refer to your letter dated 10.03.2014 (received on 10.03.2014) on the subject mentioned above and to say that as per the practice of this Department advices are tendered on the file referred to and same is returned to the concerned Administrative Ministry/Department and form part of their record. Therefore, the requisite information may be obtained from the concerned administrative Department/Ministry.

2. Dr.(Smt.) Gita Rawat, Joint Secretary & Legal Adviser, Ministry of Law & Justice, Department of Legal Affairs, Room No. 408, 'A' Wing, 4th floor, Shastri Bhawan, New Delhi-110001, Tel No. 23384777, is the Ist Appellate Authority. The period of limitation for filing the

Yours faithfully,

(K.Ginkhan Thang) Deputy Secretary & Central Public Information Officer

Tel. No.23384706.

AHNEXURE-A

FTS No. 1276/14/Adv. A Department of Legal Affairs Advice 'A' Section

PUC is an OM FTS Z1(251)/2014/C dated 15.03.2014 received on 21.03.2014 from the Implementation Cell forwarding therewith a copy of RTI application dated 10.03.2014 of Shri Ashok Kumar Jain seeking information under the RTI Act, 2005.

- 2. The Applicant has requested the following information:
 - Copies of file noting in related correspondence | Multi Commodity Exchange of India Ltd Mumbai) (ii)
 - Copies of Opinion submitted to concerned minister or ministries. (iii)
 - Copy of legal Opinion given by our Department in respect to publication of rules and byelaws of (MCX) Mumbai.
- With regard to information sought by the application, it is submitted that as per the practice of this Department advices are tendered on the file referred to it and same is returned to the concerned administrative Ministry/Department and form part of their
- 4 The above does not appear to be barred under the RTI Act, 2005 and the CAPIO may like to take appropriate action as per the provisions of the RTI Act, 2005.

25.3.14

(LalChandDabaria) Superintendent (Legal) 26.03.2014

F No. 12/3/2003 - IT (Part file)

FR may please be seen.

This case relates to the reply received from FMC enclosing a copy of the letter dated 1st July 2013 of MCX regarding publication of notification relating to recognition of Multi Commodity Exchange of India Limited (MCX) in the State Gazette

The case is explained in page No.2 for the letter received from MCX which is placed at Flag "X".

Submitted for information please.

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Ashok Kumar Jain F.C.A.

P-7, Green Park Extn., New Delhi-110016

Tel: 011-26192964, M-09810031181 e-mail: ashok.jain@yahoo.com

By Fax/Speed Post/Regd.Post

Date: 10.03.2014

Shri Inder Kumar (JS& LA)

Ministry of Law & Justice,

Govt., of India. New Delhi

> Sub: Information Required Under the Right to Information Act, 2005-Regarding Department of Consumer Affairs, Government of India.

Sir,

I have received copy of file noting from the Ministry of Finance vide its letter no.F No.9/2/2014-CD dated January 2014 New Delhi, (copy of the letter & its enclosed file noting annexed herewith marked-A & B) in which it is stated that "the proposal is already under examination in the Ministry of Law & Justice in another file. This file noting relates to Multi Commodity Exchange of India Ltd., (MCX), Mumbai, regarding publication of Recognition in State Gazette".

Keeping in view of the above letter & file noting as stated above please provide me the following information from your good self under the Right to Information Act, 2005:-

- 1. Copies of file noting & related correspondence, if any, in this subject.
- 2. Copy of opinion submitted to the concerned Minister or Ministries.
- 3. Copy of legal opinion given by your Department in respect to Publication of Rules & Byelaws of Multi Commodity Exchange of India Ltd., (MCX), Mumbai also, if any.

I am enclosing herewith 3 IPO of Rs.10/- each. One for being mandatory fee & the other Two for cost of information.

Thanking You, Yours faithfully,

(Ashok Kumar Jain)

Encl: 1) Copy of letter stated above A & B

2) P.O. of Rs. 10/- vide no... 16 -- 04.1967 3) P.O. of Rs. 10/- vide no... 16 -- 04.231

4) P.O. of Rs.10/- vide no... 6

Dy. No. 299 Contre 10/3/14

F.No.9/2/2014-CD Government of India Ministry of Finance Department of Economic Affairs

New Delhi, January , 2014

To

Shri Ashok Kumar Jain, P-7, Green Park, Extension New Delhi-110016.

Subject:- Reply to the application under the RTI Act 2005.

Sir,

With reference to your RTI application dated 07.10.2013, received by the undersigned on 23.12.2013 from Shri D.C Devgune, Under Secretary & CPIO, Department of Consumer Affairs vide the OM No. 22/21/2013-IT dated Dec., 13, a copy of the file noting (one page) and correspondence (three pages) are enclosed as desired.

In case you are not satisfied with the aforesaid reply, you may prefer an appeal before Sh. Lekhan Thakkar, Appellate Authority and Dy. Secretary (CD), Department of Economic Affairs, Ministry of Finance, North Block, New Delhi within 30 days of receipt of this reply.

Yours faithfully,

(K. N. Mishra) Under Secretary (CD) and CPIO