

Registered No. 100/2011 A/S

GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

Labour Department Complex, Vazhudavur Road, Gandhi Nagar, Puducherry 605009

No.186-App/2012-13/Lab/RTI/R1

Dated 06.02.2013

O R D E R

Sub: RTI - Application seeking for information relating to McDowell & Company Ltd., Employees Union.

Ref: Appeal dated 11.01.2013 of Thiru K. Mohandas, Puducherry.

Thiru K. Mohandas, Puducherry had submitted an RTI application dated 12.11.2012 seeking for information relating to Employees Union of McDowell & Company Ltd. The Deputy Labour Commissioner cum PIO after having obtained relevant particulars from The Supdt. (Tech) has furnished reply on 10.12.2012. In the said reply, the PIO has not supplied information on the grounds that certain information are held under fiduciary capacity and some are not available / not covered under definition of information under Section 2(f) of RTI Act, 2005. The appellant, aggrieved at the said reply of the PIO has filed the appeal cited under reference.

The appellant's grievance is that the PIO has given incorrect information and has allegedly suppressed the information. On perusal of the reply, it is seen that in so far as information at Point no.1 relating to names of first Office bearers of the Employees Union of McDowell & Company Ltd., it could hardly be brought within the confines of confidential information held under fiduciary capacity to exempt disclosure under Section 8(1)(e) *ibid*. The PIO shall therefore furnish the names of the Office Bearers concerned.

In respect of Point No.2, it has been stated that Form-E is not available and hence could not be furnished. The Supreme Court of India in the case of *CBSE vz. Aditya Bandopadhyay & Others* in Civil Appeal No.6454 of 2011 while elaborating definition of 'information' under Section 2(f) and 2(j) has ruled that such information that is to be held by the Public Authority under Law shall come to lie within the ambit of definition of information under RTI Act. As such, unless records have been destroyed by following due procedure under GFR, it shall be held to fall under available information and will be liable for disclosure unless exempted u/s.8 *ibid*. In the instant case, Form-E is a statutory document that is filed as envisaged under law. Therefore, it could hardly be stated to be not available, unless destroyed after following due procedure. Hence, PIO is directed to furnish available information. Rather, PIO is directed to permit the appellant to inspect the file concerned in terms of Section 7(9) of RTI Act, 2005. While permitting inspection, the PIO shall *interalia* exercise due caution not to disclose confidential information that are exempted from disclosure under Section 8 of the Act by duly severing it as per Section 10 of the Act.

In so far as Point No.3 and 4 is concerned, it relates to actions to be taken for failure to file Form-E. Interpretation of rules and future course of actions do not fall within the definition of 'information'. However, the extract of relevant rule provision in this regard may be furnished. In respect of point no.5, the information whether Thiru V. Lakshmi Narayanan has been shown as Secretary of the Union may be furnished as per information available in records or the appellant may be allowed to verify this fact during inspection.

The PIO is accordingly directed to intimate to the appellant a convenient date for inspection of the records during any working day. The appeal is disposed accordingly.

In case the appellant is aggrieved with the orders of the appellate authority he may file his second appeal before the Central Information Commission, New Delhi within 90 days from the date of receipt of this order.

G. Srinivas
6.2.2013

(G. SRINIVAS)

LABOUR COMMISSIONER-CUM-FIRST APPELLATE AUTHORITY

To

Thiru K. Mohan Das,
No.26, 1st Floor, New Street,
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PUDUCHERRY 605 009.

Copy to :

1. The PIO-cum-Deputy Labour Commissioner, Puducherry.