

ഒരു വ്യക്തി തന്നെ ഒരു അപേക്ഷ പബ്ളിക് ഇൻഫർമേഷൻ ഓഫീസർ എന്ന നിലയിലും ആ തീർപ്പിനെതിരെ അപ്പീൽസമർപ്പിക്കപ്പെടുകയാണെങ്കിൽ ഒന്നാം അപ്പീൽ അധികാരി എന്ന നിലയിലും തീർപ്പാക്കാൻ പാടില്ല.

The Commission posted the case for hearing on 31.3.10. Shri. [Name], the petitioner was present. But the SPIO was conspicuously absent and the petitioner was heard. In this case, the Commission observed that the information requested was denied by Smt. [Name], Secretary and SPIO on 12.4.08. The appeal petition was also disposed off by Smt. [Name], on 4.1.09 under the seal of Secretary/Information Officer/Appellate Authority. The report to the Commission dated 5.5.09 was also submitted by Smt. [Name], Appellate Authority, [Name] Taluk Co-operative Educational Society. Hence, it is clear that Smt. [Name] acts as both SPIO & Appellate Authority. "Memento iudex in causa sua" is the principle of natural justice. It means "no man shall be a judge in his own cause". Smt. [Name] provided the information in the capacity of SPIO. It was her decision to deny the information. She sat on her own decision and confirmed it in the position of the Appellate Authority too, which is unlawful. The Commission direct that an Appellate Authority should be designated immediately in that public authority. One person cannot act as the SPIO and Appellate Authority simultaneously under the provisions of the RTI Act. The Commission also observed that the denial of information under the plea that the information seeker did not belong to the area of operation of the society is against the spirit of the provisions of the Act. S.3 of RTI Act unambiguously provides "subject to the provisions of this Act, all citizens shall have the right to information". Hence the information held by a public authority cannot be denied to the citizen under any circumstances except the provisions u/s.8 & 9 of the RTI Act. There shall not be any discrimination based on the caste, creed, sex or place of information seeker.

Hence, the Commission order that the information requested by the petitioner should be provided to him within 7 days of receipt of this order, free of cost and, report compliance to the Commission. A copy of this order shall be sent to the President of the [Name] Taluk Co-operative Educational Society and also the Registrar of Co-operative Societies for their information and necessary action.

The Appeal Petition is disposed off accordingly.

Dated this the 26th day of May, 2010.