

**CENTRAL INFORMATION COMMISSION
CLUB BUILDING (NEAR POST OFFICE)
OLD JNU CAMPUS, NEW DELHI-110067**

Decision No.CIC/VS/A/2014/000378/SB/

Dated: 02.09.2015

Appellant: Shri Amitabh Narayan (Advocate)
44 Daryaganj
New Delhi

Respondent: Central Public Information Officer,
DIR(IS-I), Ministry of Home Affairs (MHA)
IS_I Div./IS-II Desk North Block
New Delhi

Date of Hearing: 02.09.2015

ORDER

1. Shri Amitabh Narayan filed an application dated 10.01.2011 under the Right to Information Act, 2005 (RTI Act) seeking information relating to tapping, interception or surveillance of telephone.

2. The Central Public Information Officer (CPIO) vide letter dated 14.03.2011 denied the information under section 8(1)(g) & (h) of the RTI Act. Not satisfied with the reply given by the CPIO, the appellant filed first appeal dated 08.04.2011 with the FAA to set aside the CPIO reply dated 14.03.2011. The FAA vide order dated 02.05.2011 upheld the decision of the CPIO. Aggrieved by the order of the FAA, the appellant file second appeal before the Commission on 07.07.2011.

Hearing:

3. The appellant Shri Amitabh Narayan and the respondent Shri Mukesh Mangal, CPIO and Director, MHA were present in person.

4. The appellant reiterated the points made in his RTI application dated 10.01.2011. The appellant submitted that information was denied to him as the information sought comes under sub Section 1(a), 1(g), and 1(h) of Section 8 of the RTI Act. The appellant further submitted that the Hon'ble Supreme Court in People's Union for Civil Liberties vs Union of India in Writ Petition (C) No. 256 of 1991 dated 18-12-1996 held that the order under Section 5(2) shall unless renewed, cease to have effect at the end of period of two months from the date of issue. The authority which issued the order may, at any time before the end of two months period renew the order if it considers that it is necessary to continue the order in terms of Section 5(2) of the Act. The total period for the operation of the order shall not exceed six months.

5. The respondent submitted that the interception is done under Section 5(2) of Indian Telegraph Act, 1885. The respondent further submitted that the interception is done in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign states or public order or for preventing incitement to the commission of an offence etc. Hence, disclosure of information related to interception could prejudicially affect the sovereignty and integrity, security of the State etc, can endanger the physical safety of persons related in the process of interception as well as impede the process of investigation or apprehension or prosecution of offenders. Hence, the information was denied under sub Section 1(a), 1(g), and 1(h) of Section 8 of the RTI Act.

6. The respondent further submitted that under sub Rule 18 of Rule 419 (A) of Indian Telegraph Rules, 1951 records pertaining to interception and of the intercepted messages shall be destroyed by the relevant competent authority and the authorized security and Law Enforcement Agencies every six months. In view of this, the records pertaining to interception and intercepted messages prior to March, 2015 are not available. Further, information in respect of such messages after March, 2015 cannot be provided as the same come under the ambit of Section 8(1)(a), 8(1)(g) and 8(1)(h) of the RTI Act.

Decision:

7. The Commission is in agreement with the stand taken by the respondent. Hence, there are no grounds to interfere with the order of FAA.

7. The appeal is disposed of. Copy of decision be given free of cost to the parties.

(Sudhir Bhargava)
Information Commissioner

Authenticated true copy.

(V.K. Sharma)
Designated Officer