

CENTRAL INFORMATION COMMISSION

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F.No.CIC/AT/A/2009/000261

Dated, the 08<sup>th</sup> June, 2009.

Appellant : Shri Swarup Bhattacharya

Respondents : Ministry of Water Resources

Hearing in this second-appeal was held on 02.06.2009 in the presence of the appellant and the respondents, represented by the CPIO, Shri Vinay Kumar, Sr. Joint Commissioner (PP).

2. Appellant's RTI-application comprised the following queries:-

- "1. Has Mrs.Sonia Gandhi written a letter expressing concerns about the impact of Hydroelectric Projects on Ganga River? Please provide a copy of such letter.*
- 2. What has the Ministry of Water Resources done in response to this letter? Please provide a copy of all the communications from Ministry of Water Resources till date including agenda notes and minutes of any meetings held in response tot his letter or concerns expressed therein.*
- 3. What action has Ministry of Water Resources taken in the past to ensure that rivers in India have fresh water all round the year?*
- 4. Do we have any policy or law that ensures & protects continuous flow of fresh water in rivers? Does such policy / law apply to planning, construction and operation of large dams? Please provide details of such law/policy and how its application is ensured and monitored in practice?"*

3. Through this second-appeal, the appellant has requested the Commission's intervention in directing the respondents to provide to the appellant the reports of the National Institute of Hydrology and the Central Water Commission along with all correspondence made in that respect.

4. It is seen that the Appellate Authority in his order dated 11.02.2009 declined to divulge the requested information because, according to him, these reports included classified data of Ganga Basin which could not be authorized to be disclosed.

5. During the hearing, respondents stated that the lean season data about flow of water in the river systems related to the Ganges could not be disclosed as it was extremely sensitive and had international implications.

6. When it was posed to them that water was a critical resource which was getting scarcer by the day and the citizens of the country were entitled to know as to what was being done to ensure that the river systems that sustain much of the life of the country should not run dry, the respondents stated that the matter was not related to any single Ministry but had inter-ministerial implications. However, they were unable to state what part of that inter-ministerial responsibility befell the Ministry of Water Resources.

**Decision:**

7. In my view, any study about water-flow in the river systems of the country must be made available to the general public for its information and education. It is not open to the public authority to hold secret critical information with which lives of millions may be related. Publication of this data informs the people about how the public authority is discharging its appointed functions and whether it was acting accountably about a matter so critical as the nation's water resources in general and the river systems in particular.

8. That being so, I also considered the submission of the respondents that lean season water-flow data of the rivers could have certain serious and non-disclosable aspects to it. Where I disagree with the respondents is that because of the sensitivity of parts of the information contained in these two Reports, they consider it fit to withhold from disclosure the entire Report. What is necessary, therefore, is that the Report is studied properly and a decision made about what portions of it needed to be withheld for reasons to be recorded therein and the balance should be allowed to be divulged.

9. It is important that this exercise is carried out in respect of the above-mentioned Reports.

10. Accordingly, it is directed that the CPIO and the holder-of-the information, i.e. the officer who holds the custody of both these Reports, shall make a determination regarding what portions of those Reports needed to be held confidential in public interest within the meaning of Section 124 of the Indian Evidence Act read with the

appropriate Sections of the RTI Act, i.e. Section 8(1) and/or Section 11(1) read with Section 2(n) of the Act. Reasons for holding these parts of the information confidential will have to be recorded, which should be open to scrutiny.

11. The balance of the Reports shall be disclosed to the appellant within 90 days of the receipt of this order. The period for disclosure had been set at about three months in order to enable the respondents to carefully go through the Reports and make a determination regarding what aspects of these Reports were to be held undisclosed and the reasons thereof.

12. Portions of the two Reports disclosed to the appellant shall also be put-up on the Ministry's website for general information.

13. Appeal is disposed of with these directions.

14. Copy of this direction be sent to the parties.

( A.N. TIWARI )  
INFORMATION COMMISSIONER