320- 307/ JTMC GAD / illegal 2nd appeal hearing conducted by FAA/ G North RTI file and folder

Date: 23.11.22

To

1. Mr. Milind Sawant (JT MC GAD)
2. Mr. Sonavane (Law officer)

Cc

1. Addl MC city
2. Addl MC project
3. Addl MC ES
4. Addl MC WS
5. Wards in jurisdiction of Addl MC city
6. All DMC

**Sub: illegal act of State Information Commissioner office destroying the spirt of RTI act**

1. **Letter ACGN/ SR/ 657 (B & F) dt. 4.11.22 intimation for conducting hearing of 2nd appeal filed with office of State Information Commissioner)**
2. **Similar 2nd appeal forwarded to legal depat**

**Reg: 2nd appeal hearing to be heard on 16.11.22 at 1.10 pm in the office of Asst Comm G northward, Dadar, Mumbai**

**Back ground**

1. I am in receipt of your letter dt. 4.11.22 on or around 11th November calling me for hearing of 2nd appeal to be conducted by FAA. However, the letter does not mention the provision of law and sections relied upon to send me such intimation. **(copy attached)**
2. Thereafter I contacted
3. Mrs. Shilpa Deshmukh (office of Mr. Sumeet Mullick Hon. State Information Commissioner
4. Mrs. Phadke PO at Head office, BMC tel no. 02222620251 ext 4201
5. office of EE G north ward. Called 02224397800 but B& F department were not picking the call 12.54 and 4.31 pm

to inform them that the 2nd appeal hearing cannot be conducted by any other person but only State Information Commissioner. In the event, if any hearing is held all the persons involved shall be committing offence u/s 166, 167, 219 IPC amongst others.

1. State Chief Information Commissioner office has been wrongfully and illegally forwarding the RTI 2nd appeals to the First appellate authority. Your office and you personally is aware of the fact that
2. there is no provision in RTI act to forward the 2nd appeal and / or delegate the powers of State Information Commissioners to any other officers and or subordinate officers to conduct hearing / pass orders and dispose the 2nd appeals.
3. There is no provision to delegate the power to conduct 2nd appeal proceedings by FAA against his own order.
4. First appellate authority cannot conduct hearing against his own order.
5. There is no authority to FAA to levy penalty and direct disciplinary action u/s 20(1)(2) RTI act.
6. FAA hearing the 2nd appeal shall create confusion and shall deny the applicant information on the grounds mentioned below as RTI act has not provided remedy
7. FAA shall in all likelihood stick to his decision and no person shall change his decision once taken.
8. Law does provide such authority to sit on judgement on the decision taken by the same authority against whose order appeal is filed
9. No authority can decide matters where there is conflict of interest especially if it is appeal against the same authority.
10. What is status of 2nd appeal and who shall direct to provide information if the FAA sticks to the decision taken earlier.
11. It is pertinent to note that what is the remedy available to appellant if FAA rejects the 2nd appeal after SIC illegally forwards it to FAA.
12. Sir we citizens condemn such blatant violations of RTI act and principles of natural justice especially committed by the office of Information Commissioners, which is betrayal of trust and destruction of spirit of RTI act. Kindly educate me if my submission is incorrect.
13. I humbly submit that your office shall return all the 2nd appeals received by your office and forwarded by State Information Commissioners and seek explanation seeking Section and provision in law under RTI act relied upon by State Information Commissioner
14. to forward the 2nd appeals filed before State Information Commissioner to First appellate authority to conduct hearing.
15. Not to provide copy of the forwarded covering letter directing to conduct 2nd appeal along with copy and attachments of 2nd appeal. accompanied by 2nd appeal and covering letter attached to it
16. **Provision of law along with sections which permits the same authority to conduct appellate judicial proceedings under RTI act against the order passed by the same authority. (citations attached)**
17. **What is remedy available under RTI act to the 2nd appellant after the FAA confirms order passed by the same authority.**
18. Similarly, every First Appellate authority to whom the 2nd appeal is forwarded shall also give explanation in writing to the appellant Section and provision of law under RTI act relied upon by Asst Commissioner G north ward, BMC in his capacity of First Appellate authority
19. to accept the 2nd appeals forwarded by State Information Commissioner to First appellate authority to conduct 2nd appeal hearing filed before the office of State Information Commissioner.
20. Not to provide the 2nd appellant copy of such direction to the 2nd appellant.
21. What is remedy available to appellant if FAA confirms the order passed earlier around 1 to 5 years ago.

**BMC officers are already overburdened to take over the responsibility of State Information Commissioner who have miserably failed to discharge their duty**

1. The BMC officers are already overloaded and cannot discharge their duties as they are overburdened with staff scarcity and lack of new appointments. It shall be injustice on the part of State Information Commissioners and the Municipal commissioner to direct the FAA of BMC to do an illegal act and be liable for prosecution u/s 166, 167, 219, 409 IPC

**Act not done in good faith, no protection can be granted u/s 21 of RTI act.**

1. Every public servant shall act in good faith after following due process of law, due care, attention and due diligence. Ignorance of law shall not be an excuse for committing such grave offences.
2. Sir with due respect and all humility each of those who have accepted the 2nd appeal illegally forwarded by State Information Commissioner and have not returned the 2nd appeals back to State Information Commissioner office and seek explanation as mentioned herein above it shall be evidence that all these concerned authorities have connived together with dishonest intentions
3. Disobeying direction of law and by framing incorrect records thereby causing injury to the 2nd appellant **166, 167 IPC**
4. Actively participating to facilitate illegal judicial proceedings without having authority and thereby passing orders without any legal authority. **219 IPC.**

Awaiting your reply in accordance with law within stipulated period and in larger interest of justice

With regards