

**Central Information Commission**  
**Room No. 5, Club Building, Near Post Office**  
**Old J.N.U. Campus, New Delhi – 110067**  
**Tel No: 26161997**

**Case No. CIC/SS/A/2010/000488**

Name of the Appellant : Shri Swarup Bhattacharya  
(Shri Himanshu Thakkar was present on behalf of the Appellant.)

Name of the Public Authority : Central Water Commission,  
(CWC), New Delhi.  
Represented by Shri V.K. Sharma, Director, Shri Bhopal Singh, Director, Shri M.S. Dhillon, Director, Shri Chindeshwar Singh, dy. Director and Shri A.K. Sharma, Asstt. Director.

The matter was heard on : 30.11.2010. (Reserved for order)

**ORDER**

Shri Swarup Bhattacharya, the Appellant, vide an application dated 5.01.2010, under the provisions of RTI Act, 2005 sought

information on 3 points to which Shri Bhopal Singh, CPIO/Director replied as follows:-

	Information sought by Appellant	CPIO Reply
1	Please provide principles and guidelines for assessment of back water impacts of dams (reservoirs) and Hydro Electric Projects as used by Central Water Commission.	No such guidelines are available in this regard. Central Water Commission's role is confined to the computation of back water levels for specified projects for their given flood hydrographs.
2	Please provide a copy of the back water impact study of Almatti Dam and report of the subcommittee set up for the back water study of Sardar Sarovar Dam	<p>No report on Back water impact study of Almatti Dam is available in Central Water commission. However, CWC has conducted back water studies for Almatti and Hippangi Reservoirs in 2005 to ascertain where the back water profile of Almatti reservoir merges with the natural condition of the river upstream of Almatti. The study was conducted for scenarios of FRL at 519.60 m.</p> <p>The report of the sub-committee set up for the back water study of Sardar Sarovar Dam is available with Central Water Commission.</p>
3	Please provide list of dams for which CWC has	Central Water Commission has not conducted any study for assessment

	<p>conducted a study of assessment of back water impacts.</p>	<p>of back water impacts of dams. Central Water Commission's role has been restricted to computation of back water level of referred projects for given sets of inflow hydrographs.</p> <p>The cost of photocopies charges for the above report for Sardar Sarovar Dam will be Rs. 62/- (31 pages @ Rs.2/- per page), the same may please be sent to this office by Demand Draft/IPO in favour of DDO-II, Central Water Commission, New Delhi.</p>
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Not satisfied with the reply, the Appellant filed an appeal before the FAA. Shri R.C. Jha, Member (RM) & Appellate Authority, Central Water Commission, while upholding the reply of the CPIO, directed the PIO to provide a photo copy of the conclusion part of the study of Almatti Dam, Karnataka. Not satisfied with the reply, the Appellant filed the present appeal before the Commission in which he pleads as follows:-

*“The issue of Backwater effects of dams is an important issue of public concern, as backwater impacts means submergence and destruction of public life and property to those who resides in the upstream of the dams, along the bank of the rivers. According to National Register of Large Dams, CWC (2009) there are more than five thousand large dams in India. And out of those so far CWC*

*claims that it has conducted only two studies on back water effects of dams one is on Sardar Sarovar and another is on Almatti. Again out of these two CWC has denied the report of Almatti on the ground of "commercial confidence under Section 8(d) of the RTI Act." CWC should be asked to provide a full list of backwater studies done by it over the years, as asked in the RTI application and also provide a copy of the Almatti backwater study. The contention of CWC that it is commercial document under section 8(d) of RTI Act, 20-05 is incorrect, as this is not commercial confidence information. It is a study done by one public authority for another public authority concerning an issue of eminent public interest. CWC should also be directed to stop asking for justifications to put any information in public domain. CWC should also be told that their refusal to provide a copy of the study should have been mentioned in the first response dated January 25, 2010 and not after we again wrote to them for a copy, thus implying passage of additional time.*

*Secondly, in response to my first question in the RTI application, namely "Please provide principles and guidelines for assessment of back water impacts of dams (reservoirs) and hydro electric projects as used by CWC", CWC replied that "No such guidelines are available in this regard". This seems shocking and unlikely to be true. Everyone of the over 5000 large dams has backwater impacts and it would be unlikely that the GOI's apex techno economic organization would have no principles or guidelines for assessment of such impacts. CWC should be asked to produce such a guideline at the earliest.*

*Thirdly, the appellate authority, in its decision dated March 23, 2010 provides no reason why it refused to order CPIO to provide full backwater impact study of Almatti and Happangi Dams. Appellate*

*Authority should be directed to provide reasons for denying providing full report to me. Similarly Appellate Authority does not say any thing about the CPIO's demand that the RTI applicant has not provided any justification for providing the information held by public authority, when RTI act does not demand such a justification.*

*Fourthly Appellate Authority in his letter dated March 23, 2010 has ordered to provide photocopy of the conclusion part of the report, CPIO and Director Mr. Bhopal Singh in his letter dated April 13, 2010 has not enclosed the photocopy of the concluding part of the report. My argument is that Back Water effect of Dams are the issues of public interest, the CWC is a public authority conducted that study so CWC should be making these reports public on its own. In any case, they cannot deny these under RTI.*

Concluding their pleading with the following Prayer:

*Direct CWC to provide the requested report on Back Water Study of Almatti and Happangi Dams."*

During the hearing the Respondent submit that information on point No.1 and 2 of the RTI application cannot be provided on the grounds that data on the basis on which the back water impact study for Almatti and Hippangi Reservoirs have been conducted to ascertain where the back water profile of Almatti reservoir merges with the natural condition of the river upstream of Almatti, is the property of State Government and therefore cannot be provided to the Appellant. The Respondent submit that since the study has been conducted for the State Government of Karnataka based on the data provided by them, this information cannot be provided by the Central Water Commission. The Respondent also reiterate that CWC has not

conducted any study for assessment of backwater impact of dams. CWC role has been restricted to computation of backwater of referred projects. Shri Himanshu Thakkar who was present on behalf of the Appellant submits that the issue of back water impact of dams (reservoirs) is an important issue of public concern and therefore cannot be denied. He also submits CWC has denied the study of Almatty on the ground of “commercial confidence” u/s 8(1) (d) of the RTI Act. This contention as per Appellant is, incorrect as no commercial confidence information is involved and in fact it is a study done by one public authority for another public authority concerning an issue of eminent public interest. The Appellant also submit that he should be provided a complete copy of the study of the backwater effect of Almatty Dam and not just conclusion part of the study as held by the FAA. The Appellant also submits that the claim of the CWC that no guidelines or assessment of back water impact of dams (reservoirs) are available seems unlikely to be true since it is unlikely that the Government of India’s apex techno economic organization do not have principles or guidelines for assessment of such impacts.

After hearing the contention put forth by both the parties and on perusal of relevant documents on file, it is clear that the stand of the CWC is that while they have not conducted any study for assessment of back water impact of dams, they have been involved in the computation of back water levels of referred projects for given sets of inflow hydrographs. The report of the sub-committee set up by back water study of Sardar Sarovar Dam is available with the CWC and has been provided to the Appellant. The CWC, have, in their reply admitted that “CWC has conducted back water study for Almatti and Hippangi Reservoirs in 2005 to ascertain where the back water profile of Almatti reservoir merges with the natural condition of the river

upstream of Almatti. The study was conducted for scenarios of FRL at 519.60 m.”

The question to be decided is whether the study on the back water impact of Almatti dam conducted by the CWC can be provided to the Appellant. The Respondent has declined to provide this information on the grounds of commercial confidence u/s 8 (1) (d) of the RTI Act and on the grounds that no larger public interest is involved in the disclosure of such information. During the hearing the Respondent also took plea that the cross sections and data on the basis of which the study was conducted is the property of the State Government and therefore cannot be provided to the Appellant by the CWC.

Section 8(1) (d) of RTI Acts reads as follows:-

“information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information.”

The Commission is of the view that there is no question of intellectual property or commercial interest of anybody and therefore section 8(1) (d) of the RTI Act is not applicable in this case. The Commission is also of the view that the sought for information is now held by the CWC since it is a part of the study conducted by CWC the data has now become a part of the report of CWC, irrespective of the fact who has supplied it. Moreover, nowhere have the Respondent claimed that the data is sensitive or of the likelihood of its disclosure affecting prejudicially the sovereignty and integrity of India or the

security strategic, scientific or economic interest of the state or relations with any foreign state. The Commission agrees with the contention of the Appellant that disclosure of this information is in the public interest. Moreover, the disclosure of this information would promote the cause of transparency and accountability which is the basic objective of the RTI Act. In view of above, and keeping in view the facts and circumstances of the present case, the Commission deems it fit to direct the CPIO to provide a copy of the study conducted by CWC on the Back water impact of Almatti Dam to the Appellant, free of cost, within 10 days of receipt of this order.

With these directions the mater is disposed of on the part of the Commission.

Sd/-  
(Sushma Singh)  
Information Commissioner  
8.2.2011

Authenticated true copy:

**(S.Padmanabha)**  
Under Secretary & Deputy Registrar

**Case No. CIC/SS/A/2010/000488**

**Copy to:**

1. Shri Swarup Bhattacharya,  
86-D, AD Block,  
Shalimar Bagh,  
Delhi – 110088.
  
2. The Central Public Information Officer,  
Director,  
Central Water Commission,  
Design & Research Coordination Directorate,  
723 (S), Sewa Bhawan, R.K. Puram,  
New Delhi – 110066.
  
3. The First Appellate Authority,  
Member (RM),  
Central Water Commission,  
Design & Research Coordination Directorate,  
723 (S), Sewa Bhawan, R.K. Puram,  
New Delhi – 110066.