

# CENTRAL INFORMATION COMMISSION

(Room No.315, B-Wing, August Kranti Bhawan, Bhikaji Cama Place, New Delhi 110 066)

**Prof. M. Sridhar Acharyulu (Madabhushi Sridhar)**

Information Commissioner

**CIC/SA/A/2015/000525**

## **HEARING OF SHOW CAUSE NOTICE**

### **Subhash Chandra Agrawal v. PIO, M/o Environment, Forests & Climate Change**

Important Dates and time taken:

|   |                            |                            |
|---|----------------------------|----------------------------|
| <b>Result: Adjourned</b> [30-9-2015<br>2.30 pm] | <b>Hearing:</b> 10-08-2015 | <b>Decision:</b> 13-8-2015 |
|---|----------------------------|----------------------------|

#### **Parties Present:**

1. Appellant is present. Public authority is represented by Mr. Ashok Kumar, Under Secretary.
2. In its hearing on 3-7-2015 the Commission passed the following order on 9-7-2015:

**Summary:** The CPIO's denial of information in this case is not legally correct. The information sought is not at all personal information of Mr Chaturvedi. It is only a lame excuse put forward by the CPIO just to deny the information. The CPIO, if he was confident about his contention that it was private information he should have initiated the process of obtaining views of Mr Sanjiv Chaturvedi. Hence the bonafides of CPIO are doubtful. His contention that the information can be denied under Section 8(1)(e) claiming to have received in fiduciary relationship is also found baseless. It pertains to the public activity of the public servant working at top level of Government and the matter relates to his performance of duty, leading to harassment from the embarrassed leaders in the political government, such as frequent transfers or being dumped in loop line with unimportant assignments etc. As the issue pertains to protecting the honest officers who are fearlessly performing their duties, inviting the wrath of political bosses and

fighting against the corruption, as revealed by the news items referred in RTI application, the disclosure of information will serve the public interest.

**“FACTS:**

2. Originally the appellant filed RTI request on 22.10.2013 with Prime Minister's office to know details about the controversy reported in newspapers such as "Sonia sought help for beleaguered officers, DoPT did not oppose" (Hindu 26.08.2013) "Centre rescues whistleblower again" (Hindu 5.10.2013) and "President quashes Haryana Government's case against whistle blower officer (HT 5.10.2013) etc. Appellant was seeking information about the IFS Officer, Shri Sanjiv Chaturvedi.

a) Copies of complete communications between PMO and DoPT regarding IFS officer Shri Sanjiv Chaturvedi including also DoPT opinion dated 17.02.2012 (or some other date) together with all related file-notings/correspondence/ documents etc on the subject.

b) Copies of all representations etc including from Parliamentarians, Non-Government Organisations (NGOs) and other demanding action against concerned ones at DoPT about DoPT opinion regarding Shri Sanjiv Chaturvedi.

c) Complete information together with all related correspondence/file-notings/documents etc. on action taken on representations etc as referred in query above by PMO, and /or public authorities where these submissions might have been forwarded.

d) Complete information together with all related correspondence/ documents/file-notings etc on action taken against anyone including also at DoPT for leaking DoPT opinion and other related documents on the matter relating to Shri Sanjiv Chaturvedi at a time when reports indicate that such documents were also leaked to the persons against whom Central Bureau of Investigation (CBI) and Central Vigilance Commission (CVC) had recommended CBI investigation, etc.

3. CPIO denied the information by claiming exemption of section 8 1(j) of RTI, Act 2005. Being unsatisfied, appellant filed First appeal. First appellate authority upheld PIO reply. Being unsatisfied, appellant approached the Commission.

**Proceedings Before the Commission:**

4. Before examining the denial of information, the concerns involved in RTI request need to be understood. 'The Hindu' daily newspaper reported Minister for Personnel & Training went out of way to prevent Union Government from rescuing Mr. Sanjiv Chaturvedi an IFS officer fighting corruption in Haryana state and facing the wrath of the state government. It is stated that in spite of UPA Chairperson Sonia Gandhi's suggestion to help honest officers saving from harassment for performing their duty, Congress-ruled state of Haryana was harassing him. Hence the appellant sought to know relevant information about Mr Sanjiv Chaturvedi.

5. During hearing the Commission dialled Mr Sanjiv Chaturvedi, the IFS officer whose information is sought by the appellant in his 13- points RTI application, to know his views, as the CPIO claimed that the information sought would invade his privacy. Mr. Sanjiv Chaturvedi told the Commission that information was not his personal information and he does not have any objection for its disclosure. The PIO also spoke to Mr. Chaturvedi, contending that the information sought was not only personal but also given in fiduciary relation between employer and employee. Mr. Chaturvedi reiterated that he had no objection of disclosure, as it

was neither personal nor given in fiduciary capacity, because the matter was concerned with public activities.

6. Appellant says that RTI was filed on 22.10.2013 and the PIO responded on 27.08.2014, but it reached appellant in March, 2015. The PIO explained it was transferred from PMO office and reached him on 05.08.2014 at 2 p.m. The letter of PMO was dated 01.07.2014 and it reached RTI Cell of respondent on 10.07.2014. Even if it is assumed to have reached on 10.07.2014 the information should have been given within one month, but it was given on 27.08.2014, delayed by 17 days as per CPIO's count. Appellant says the delay was more than 10 months. The CPIO did not explain the delay.

7. Appellant contended that if the CPIO considers it as personal information of Mr. Sanjiv Chaturvedi, he should have obtained his views as per section 11. There was no such effort to seek his view at all. The CPIO, during first appeal, presented a letter dated 11.10.2013 supposedly written by Mr. Sanjiv Chaturvedi saying that disclosure would harm him. This letter predates the RTI application, which cannot be considered as the objection from third party, contended the appellant. Neither CPIO nor First Appellate Authority tried to secure views of Mr. Sanjiv Charurvedi, though it was required under Section 11. First appellate authority ignored this contention and confirmed the denial of information.

8. The Commission holds that denial of information in this case is not legally correct. The information sought is not at all personal information of Mr Chaturvedi. It is only a lame excuse put forward by the CPIO just to deny the information. The CPIO, if confident that it was private information, should have initiated the process of obtaining views of Mr Sanjiv Chaturvedi. Hence the bona fides of CPIO are doubtful. His contention that the information can be denied under Section 8(1)(e) claiming to have received in fiduciary relationship is also baseless. The CPIO could not produce any material or explanation to establish this point. Thus the information sought is not hit by any provision of section 8(1).

9. The request of appellant clearly pertains to the public activity of the public servant working at top level of Government and the matter relates to his performance of duty, leading to the harassment from the embarrassed leaders in the political government, such as frequent transfers or being dumped in loop line with unimportant assignments etc. As the issue pertains to protecting the honest officers who are fearlessly performing their duties, inviting the wrath of political bosses and fighting against the corruption, as revealed by the news items referred in RTI application, the disclosure of information will serve the public interest. In democracy the people have right to information about working of or obstruction to both the political executive and bureaucratic machinery. Even if there is any iota of doubt that any of exception under Section 8(1) might apply, the public interest will overweigh such protection as ordained under Section 8(2). This entitles appellant to get information sought free of cost under Section 7(6).

10. Hence, the Commission directs the respondent authority to provide point-wise information to appellant with related documents free of cost, and copy of despatch proof of CPIO's response dated 27<sup>th</sup> August 2014, within **15 days** from the date of receipt of this order.

11. The appellant demanded compensation for mental agony, spending of man-hours, and expenditure incurred in travelling to attend appeals etc. However, there is no direction on this issue.

12. Appeal is disposed of accordingly. Case is posted for compliance on **10<sup>th</sup> August 2015, at 2.30 pm.**"

**DECISION:**

3. Mr. Ashok Kumar, Under Secretary/CPIO made submissions before the Commission and presented the copies of information to the appellant during hearing. Appellant submitted that it is incomplete. He wanted information for points 7 and 8 of his RTI application. The Commission, therefore, directs the respondent officer to provide complete information for points 7 and 8 of the RTI application together with related documents free of cost within 2 weeks from the date of receipt of this order. The Commission also directs the CPIO/PMO and CPIO/DOPT to provide information sought, appear before the Commission to report compliance to the Commission.

4. The case is adjourned to **30-9-2015 at 2.30 pm.**

(M. Sridhar Acharyulu)  
Information Commissioner

Authenticated true copy

(Babu Lal)  
Deputy Registrar

**Addresses of the parties:**

1. The CPIO under RTI,  
M/o Environment, Forests & Climate Change,  
(Vigilance Division), Agni Wing, Level-IV,  
Indira Paryavaran Bhawan, Jor Bagh Road,  
Ali Ganj, New Delhi-110003.
  
2. The CPIO under the RTI Act, Government of India  
Department of Personnel & Training (RTI Cell)  
North Block, New Delhi-110001.

3. The CPIO under the RTI Act, Government of India

Prime Minister's Office, South Block (RTI Cell)

New Delhi-110011

4. Shri Subhash Chandra Agrawal,

1775, Kucha Lattushah, Dariba Chandni Chowk,

Delhi, 110006.