

केन्द्रीय सूचना आयोग
Central Information Commission
बाबा गंगनाथ मार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

द्वितीय अपील संख्या / Second Appeal No. CIC/CAKP/A/2019/128661

Jitendra Kumar

... अपीलकर्ता/Appellant

VERSUS

बनाम

CPIO

...प्रतिवादी /Respondent

O/o. the Income Tax Officer,
Ward No. 1(4), Aligarh, Uttar
Pradesh-202001

Relevant dates emerging from the appeal:

RTI : 19-11-2018	FA : 16-01-2019	SA : 17-06-2019
CPIO : 31-12-2018	FAO : 25-02-2019	Hearing : 16-02-2021

ORDER

1. The appellant filed an application under the Right to Information Act, 2005 (RTI Act) before the Central Public Information Officer (CPIO) O/o. the Income Tax Officer, Ward No. 1(4), Aligarh, Uttar Pradesh. The appellant seeking information on seven points, including, inter-alia:-

- (i) Whether the persons as mentioned in the RTI application are Income Tax Assessee;
- (ii) If they are an Income Tax Assessee, have been they are filing their income tax returns;
- (iii) Daily progress report on his application, etc.

2. As the CPIO had not provided the requested information, the appellant filed the first appeal dated 16.01.2019 requesting that the information should be provided to him. The first appellate authority was ordered on 25.02.2019 and disposed of his first appeal. He filed a second appeal u/Section 19(3) of the RTI Act before the Commission on the ground that information has not been provided

to him and requested the Commission to direct the respondent to provide complete and correct information.

Hearing:

3. The appellant attended the hearing through video-conferencing. The respondent, Shri Anjnesh Kumar, CPIO attended the hearing through audio-call.

4. The appellant submitted that no information has been provided to him by the respondent on his RTI application dated 19.11.2018. The appellant stated that the respondent has wrongly denied the information to him. He stated that without giving the PAN number, the action taken on his TEP should be informed to him.

5. The respondent submitted that they have informed the appellant that “In this connection, the point wise information asked under RTI Act, 2005 by you is not possible to give without PAN. As PAN is mandatory to recognize the assessee. Hence, the information called point No. 1 to 6 of your application from this office may please be treated as Nil”.

Decision:

6. The Commission, after hearing the submissions of both the parties and after perusal of records, observes that the respondent has denied the information to the appellant on the ground that “In this connection, the point wise information asked under RTI Act, 2005 by you is not possible to give without PAN. As PAN is mandatory to recognize the assessee. Hence, the information called point No. 1 to 6 of your application from this office may please be treated as Nil”. The Commission is of the view that the broad outcome of the Tax Evasion Petition/or status of the Tax Evasion Petition should be informed to the appellant under the RTI Act. Even in absence of PAN, this information can be disclosed to the appellant.

7. The Commission observed that the Hon’ble High Court of Delhi in the matter of **Kamal Bhasin v. Radha Krishna Mathur and Ors.**, W.P.(C) 7218/2016 dated 01.11.2017 had held as under:

“6. In the present case, the petitioner stands as a relator party as he is also one of the complainants. The petitioner is not seeking any personal information regarding respondent No. 3, but merely seeks to know the outcome of the complaint made by him and other such complaints. The PFC Officers Association had pointed out certain conduct which according to them was irregular and warranted disciplinary action; thus, they would be certainly entitled to know as to how their complaints have been treated and the results thereof.

7. Section 8 (1) (j) of the Act reads as under:- "8. Exemption from disclosure of information.- (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen, - xxxxxxxxx (j) information which relates to personal information the disclosure of which has not relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the Central Information Commission appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information."

8. It is apparent from the plain reading of the aforesaid clause that in order to claim exemption from disclosure of any information, the essential conditions that must be satisfied are: (i) that it is personal information the disclosure of which has no relationship to any public activity or interest; or (b) that it would cause unwarranted invasion of the privacy of the individual. However, even if the aforesaid conditions are satisfied, the Central Public Information Officer or the State Public Information Officer or the Appellate Authority may disclose the information if they are satisfied that the larger public interest justifies the disclosure of such information.

9. The proviso of Section 8 (1) of the Act is also important and reads as under: "Provided that the information, which cannot be denied to the Parliament or a State Legislature shall not be denied to any person."

10. By virtue of the aforesaid proviso to Section 8(1) of the Act, it is enacted that information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person. In the present case, it was doubtful whether information as to the fate of the complaints can be considered as personal information that has no relationship with public interest or public activity. The activity of the Central Vigilance Department includes investigation and taking action in cases of corruption. Secondly, the complaint related to the allegations of misconduct and how these complaints were treated were clearly matter of public interest.

11 In the circumstances, this Court directs the respondent to disclose to the petitioner as to what action had been taken pursuant to his complaint and other similar complaints made against the then CMD. The petitioner would not be entitled to any notings and deliberations of the Group of Officers or Disciplinary Authority but only information as to what action was taken in relation to the complaints in question."

The Commission referred to the decision of the Hon'ble High Court of Delhi in **Bhagat Singh v. CIC & Ors.** WP(C) 3114/2007 wherein information on 03 points was sought regarding (i) Fate of Petitioner's complaint (tax evasion petition) dated 24.09.2003 (ii) What is the other source of income of petitioner's wife Smt. Saroj Nimal than from teaching as a primary teacher in a private school ' iii)What action the Department had taken against Smt. Saroj Nimal after issuing a notice u/s 131 of the Income 'tax Act, 1961, pursuant to the said Tax Evasion Petition. The Hon'ble High Court after careful examination of the matter had held as under:

“14. In the present case, the orders of the three respondents do not reflect any reasons, why the investigation process would be hampered. The direction of the CIC shows is that the information needs to be released only after the investigation and recovery in complete. Facially, the order supports the petitioner's contention that the claim for exemption made by respondent Nos. 2 and 3 are untenable. [Section 8\(1\)\(j\)](#) relates only to investigation and prosecution and not to recovery. Recovery in tax matters, in the usual circumstances is a time consuming affair, and to withhold information till that eventuality, after the entire proceedings, despite the ruling that investigations are not hampered by information disclosure, is illogical. The petitioner's grouse against the condition imposed by the CIC is all the more valid since he claims it to be of immense relevance, to defend himself in criminal proceedings. The second and third respondents have not purported to be aggrieved by the order of CIC as far as it directs disclosure of materials; nor have they sought for its review on the ground that the CIC was misled and its reasoning flawed. Therefore, it is too late for them to contend that the impugned order contains an erroneous appreciation of facts. The materials available with them and forming the basis of notice under the Income Tax act is what has to be disclosed to the petitioner, i.e the information seeker.

15. As to the issue of whether the investigation has been complete or not, I think that the authorities have not applied their mind about the nature of information sought. As is submitted by the Petitioner, he merely seeks access to the preliminary reports investigation pursuant to which notices under [Sections 131](#), [143\(2\)](#), [148](#) of the Income Tax have been issued and not as to the outcome of the investigation and reassessment carried on by the Assessing Officer. As held in the preceding part of the judgment, without a disclosure as to how the investigation process would be hampered by sharing the materials collected till the notices were issued to the assessee, the respondents could not have rejected the request for granting information. The

CIC, even after overruling the objection, should not have imposed the condition that information could be disclosed only after recovery was made.

16. In view of the foregoing discussion the order of the CIC dated 8th May 2006 in so far as it withholds information until tax recovery orders are made, is set aside. The second and third respondents are directed to release the information sought, on the basis of the materials available and collected with them, within two weeks.”

The Commission in the decision of **Shri Virag R. Dhulia v. Income Tax Department, Kolkata** in CIC/LS/A/2009/001179 dated 18.02.2010 had held as under:

“It is to be noted that investigation into a TEP cannot be allowed to go on ad-indefinitum and that it should be concluded in a reasonable time frame whereafter the broad outcome thereof needs to be communicated to the appellant i.e. whether the allegations made in the TEP are fully true, partially true or untrue. No further information needs to be disclosed at this stage.”

8. In view of the above ratios, the Commission directs the respondent to inform to the appellant the current status of his Tax Evasion Petition and/or if the said TEP has already been disposed of, then, broad outcome of the Tax Evasion Petition should be informed to the appellant as per his RTI application, before transfer of the TEP to the Investigation wing, within a period of 15 working days from the date of receipt of this order.

9. With the above observations, the appeal is disposed of.

10. Copy of the decision be provided free of cost to the parties.

Neeraj Kumar Gupta (नीरज कुमार गुप्ता)
Information Commissioner (सूचना आयुक्त)

दिनांक / Date: 16-02-2021

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रति)

S. C. Sharma (एस. सी. शर्मा),
Dy. Registrar (उप-पंजीयक),
(011-26105682)

Addresses of the parties:

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2. Jitendra Kumar

