

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

File No.CIC/SA/A/2014/000669
(Hearing of Show Cause Notice)

Appellant : **Sh. Anil Sood**

Respondent : **Sub Divisional Magistrate
(Election), GNCTD**

Date of hearing : **09-02-2016**

Date of decision : **24-2-2016**

Information Commissioner : **Prof. M. Sridhar Acharyulu
(Madabhushi Sridhar)**

Referred Sections : **Sections 20 of the Act**

Result : **Disposed of with directions**

1. The appellant is present. The Public Authority is represented by Krishan Kumar, SDM and Devender Kumar, AERO.

FACTS:

2. The Applicant through his RTI application on 1.10.2013 sought for information concerning Assembly Constituency-36 relating to copies of booth-wise list of registered voters, males/female ratio, number of people who have given their permanent address proof other than those in which they are residing etc. PIO by his letter on 1.11.2013 asked with respect to point no.1, to pay fee of Rs. 7922/- and for other points, said that they are not covered under section 2(f) of the RTI Act. Being unsatisfied, the appellant preferred first appeal before the FAA. First Appellate Authority by order dated 20.1.2014, directed the PIO to furnish information as per RTI Act, 2005. In compliance to FAA's order, PIO furnished a reply on 21.1.2014. Being unsatisfied, the appellant has approached the Commission in second appeal.

3. The Commission in its earlier hearing on 6-1-2015, passed the following order dated 13-1-2015.

“DECISION.

7. The appellant being a public spirited lawyer questioned the method of accepting the residence proof only on recommendation by MP or MLA which, as per his argument caused multiplication of voters, i.e., one voter having different votes at different addresses. The appellant's representative, young lawyer Ms Leezaa Grower challenged the PIO's reply and the order of FAA. She asked to set aside the order of the first appellate authority for being non-speaking about the unreasonable reply given by the PIO who also sought a fee of Rs.7922/- for 3961 pages. FAA is expected to study each item of information sought by the appellant carefully and pass a lucid, sequential order, but instead ordered the PIO to review the appellant request de novo and pass a speaking order within 7 days. At the same time, strangely, the FAA directed the appellant to deposit the fee within 3 days. The lawyer questioned this contradiction saying how can the appellant be asked to deposit Rs.7922, before inspecting as per the FAA order. The

Commisison finds that the demand of Rs.7922 is arbitrary and it does not explain what kind of information PIO is about to furnsih. Even after the direction of the FAA, the PIO did not justify the demand for such huge amount. Without giving any speaking order the FAA simply wanted the PIO to do the entire exercise again which was not done by the PIO.

8. Appellant said that because of criterion that MP or Councillor's recommendation substituting the proof of residence, there are huge number of bogus votes in Delhi constitutency which has capacity of rendering the whole process of elections in Delhi into a farce. The Election officers are trying to delay and deny the information instead of providing as he sought for. When an affidavit by elected members of Parliament or Municipal Councilors could be the basis of giving a voter card, what action the government would take in case one single person getting more than one voter card? He said that answers to his questions would lead to detection of bogus voters and their elimination, which is highly essential to protect public interest and democratic process.

9. The Commission finds huge public interest in the appellant's RTI application which should have been answered long ago. It is surprising that the First Appellate Authority issued such an order as if it was without application of mind. In the context of the admission about mistakes and huge bogus votes in Delhi by Chief Electoral Officer of National Capital in a PIL before Delhi High Court, the problem appears to be more serious and complex. It is shocking to know that there are 58000 cases of wrong photo image, including that of a film star on a common man's voter card, an indepth inquiry into residential addresses with MP recommendation criterion might reveal more bogus votes. As there is a possibility of correction of voters list, the Commission recommends the respondent authority to examine the issue raised by the appellant and if that could be used to detect the bogus voter cards, such an initiative should be adopted immediately.

10. The Commission notes that this issue of bogus voter cards because of disputed residential addresses and multiple cards in one name is not taken seriously by the respondent authority. The First Appellate Authority should have properly advised his officers to give break up of information as sought by the appellant instead of offering inspection simultaneously directing him to pay huge amount as fee. Without inspecting how could one know cost for copying?

11. The Commisison, therefore, issues a Show Cause Notice to the PIO for non-compliance of the FAA order. The Commisison also sets aside the order of the FAA to the extent of directing the appellant to deposit Rs.7922. The Commisison directs the

Respondent authority to provide the following information to the appellant as soon as possible and not beyond 20 days from the date of receipt of this order:

- a) Certified copies of the booth-wise list of registered voters in the booths of colonies/blocks in Bijwasan Assembly Constituency (Booths as specified in Part 1 of the RTI)
- b) List of registered voters in Bijwasan Assembly Constituency. who have given permanent address proof other than the address, they are residing in.
- c) List of registered voters in Bijwasan Assembly Constituency whose permanent address is other than the address they are living in
- d) Whether an affidavit duly attested by M.P. (Member of Parliament) is accepted by the concerned Deptt. as the address proof to get registered as voter by the concerned deptt.
- e) Whether an affidavit duly attested by a Municipal Councillor is accepted by the concerned deptt as address proof to get registered as voter by the concerned deptt
- f) Points 9, 10, 11, 12 of the RTI application dated 01.10.2013.
- g) Point 15, 16, 17, 18 and 22 of the RTI application 012.10.2013.

12. The Commission orders accordingly.”

DECISION:

4. In response to the above notice, the PIO Mr.Krishan Kumar appeared before the Commission and made submissions. The appellant submitted that the information furnished by the PIO on points Nos. (f) and (g) of his RTI application is not clear. The PIO submitted that special drive for revision of voters' list shall be carried out on the instructions of the Election Commission. Otherwise, in a routine way, revision of the electoral rolls is carried out as and when a voter points out some mistake in the rolls and

on submission of the relevant form for amendment of the same with documents. He further submitted that the deletion of names from the voters list is done after due verification by the concerned Booth Level Officer, after giving hearing notice to the voter at the given address. Even then, it is open to the voter whose name was deleted from the list, to challenge the same at the appropriate forum. Deletion of a voter's name is usually done after the BLO personally takes the testimony of the people who are residing at the voter's given address.

5. Appellant wanted to know what the penalty is and what action has been taken against the people who have more than one voter card in more than one constituency. After hearing the submission from both the parties, Commission noticed that some vital aspects of second appeal has not been answered by the PIO inspite of the order/notice of the Commission. In view of the above stated facts, Commission directs the PIO to provide the information on following points :

- a. Why CPIO has claimed Rs. 7922 and on basis of which documents?
- b. How many multiple votes/duplicate votes were deleted because of residence proof being substituted with recommendation of MP/MLA, about residence?
- c. As it was noticed that verification survey were conducted routinely from 2013 to 2015, inform the details of those inspections such as how many votes were deleted in each verification, etc.,
- d. What action has been initiated against those who were in possession of bogus/multiple cards? and
- e. Details of campaign conducted and expenditure incurred since 2013.

Commission observes that the nature of functioning of public authority required a positive a mind set of providing complete information at first instance i.e in response to RTI application. It is not proper on the part of public authority to suppress the information on such vital aspects, inspite of CIC Order. Commission recommends that most of the information as sought by the appellant should have been published under section 4 (1)(b), accordingly, there should be proper updating of section 4 (1)(b). Commission directs public authority to take necessary steps to update the official website with such information at regular intervals.

6. The Commission directs the PIO to comply with above directions, within one month from the date of receipt of this order.

(M.Sridhar Acharyulu)
Information Commissioner

Authenticated true copy

(U.C.Joshi)
Deputy Secretary

Addresses of the parties:

1. The CPIO under the RTI Act,
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2. Shri Anil Sood

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