

केन्द्रीय सूचना आयोग
Central Information Commission
बाबागंगनाथमार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नईदिल्ली, New Delhi – 110067

File No : CIC/CCITL/A/2020/128342

Hari Gupta

.....अपीलकर्ता/**Appellant**

VERSUS

बनाम

CPIO,

O/o the Directorate General
Of Income Tax (Investigation).
RTI Cell, Aayakar Bhawan, 5-Ashok
Marg, Lucknow – 226001, Uttar Pradesh.

....प्रतिवादीगण /**Respondent**

Date of Hearing : 17/02/2022

Date of Decision : 27/04/2022

INFORMATION COMMISSIONER : Saroj Punhani

Relevant facts emerging from appeal:

RTI application filed on : 12/02/2020

CPIO replied on : 11/03/2020

First appeal filed on : 18/05/2020

First Appellate Authority order : 03/07/2020

2nd Appeal/Complaint dated : 17/09/2020

Information sought:

The Appellant filed an RTI application dated 12.02.2020 seeking the following information:

1. *What action has been taken at your end on Tax Evasion Petition dated 14.08.2019.*
2. *Whether Mr. Jawahar Lal and Smt. Shobha wati, Rajajipuram, Talkatora, Lucknow is an income Tax assessee. r/o C-379416,*
3. *If he is an Income Tax assessee, has he been filing his income Tax Returns on a regular basis.*
4. *Please provide me the details with certified copies of Income Declared/ Income Tax Paid from the Period 2012-13 to 2015-16.*
5. *If the department has decided not provide the above mentioned information, the reasons why?*
6. *What reasons your department has with not complying with the ratio of judgement laid down by Hon'ble Delhi High Court in Bhagat Singh Vs Central Information Commissioner and Others vide Writ Petition (Civil) 3114t2007 dared 03.12.2007.*
7. *Please provide the list of all people with complete addresses if who have helped with money on the occasion of the marriage of the daughter of Mr. Jawahar Lal and Smt. Shobha wati, r/o C-3794t6, Rajajipuram, Talkatora, Lucknow, with the money they claim to have given to Mr. Shri Hari Gupta.*
8. *Have any of such persons claimed to have helped with amount more than Rs 20,000/- (Rupees Twenty Thousand only). If so, please provide the name and complete address of that person.*
9. *If any person exists, which can be subjected to the conditions enumerated in Query 3, what action department has taken for flouting s. 26953 of Income Tax Act, 1961? If the said person did not fall under the jurisdiction of your esteemed office, has the information been passed to relevant office having the jurisdiction over that person?*

The CPIO furnished reply to the appellant on 11.03.2020 informing that the TEP was forwarded to DGIT(Invt.), Lucknow on 23.08.2019. Being dissatisfied, the appellant filed a First Appeal dated 18.05.2020. FAA's order dated 03.07.2020 directed the 'CPIO O/o The Director General of Income Tax (Investigation), Lucknow to examine the application & furnish the information, if permissible under RTI Act, 2005 within 15 days.'

Feeling aggrieved and dissatisfied with the non-compliance of FAA's order, the appellant approached the Commission with the instant Second Appeal.

Relevant Facts emerging during Hearing:

The following were present:-

Appellant: Present through audio conference mode.

Respondent: Mamta Keswani, Income Tax Officer (Inv.)(HQ) & CPIO present through audio conference.

The Appellant stated that he is aggrieved with the fact that he has not received the desired information till date and merely is informed about back and forth forwarding/transfer of his complaint.

The CPIO reiterated the written submissions sent to the Commission on 11.02.2022 prior to the hearing wherein the following has been stated:

"1. The TEP dated 14.08.2019 of Shri Hari Gupta against Shri Jawahar Lal and Smt. Shobha wati, R/o- C-3794/6, Rajajipuram, Talkatora, Lucknow was received in this office from the O/o the Pr. CCIT, U.P.(East), Lucknow and forwarded to the O/o PDIT(Inv.), Lucknow on 26.09.2019 being the jurisdictional authority to deal with the TEP.

2. Later, an RTI application dated 12.02.2020 in the above case was received in the O/o the Pr. CCIT, U.P.(East), Lucknow which was duly replied by the CPIO/DCIT(HQ)(Admn), O/o the Pr. CCIT, U.P.(East), Lucknow vide letter bearing F.No. Pr.CCIT/Lko/RTI/Vol.-4/2019-20/10882 dated 11.03.2020.

3. Having been dissatisfied with the reply, the petitioner Shri Hari Gupta filed the first appeal which was received in this office on 05.06.2020. This appeal was forwarded to the O/o Pr. CCIT, U.P.(East), Lucknow as the RTI application was replied by the CPIO, O/o the Pr. COT, U.P.(East), Lucknow.

4. The First Appellate Authority passed its order on petitioner's appeal directing this office to examine the application and furnish the information, if permissible under the RTI Act, 2005. However, Since no such RTI application was ever received in this office hence, no information could be provided to the petitioner.

5. Further, after receipt of the hearing notice from your good office on 07.02.2022 which incidentally contained the copy of RTI application also, the status report of the TEP was called for from the O/o Pr. DIT(Inv.), Lucknow. The status report of the TEP was received in this office on 10.02.2022. As per the report, the TEP dated 14.08.2019 was investigated and no further action under the Income Tax Act, 1961 is proposed by the Investigating Officer.

6. *It is also submitted that the copy of investigation report cannot be furnished to the petitioner since the Directorate of Income Tax (Investigation) has been declared as an "exempted organization" vide Notification GSR 235 (E) dated 27th March, 2008 issued by the Ministry of Personnel, Public Grievance and Pensions (Department of Personnel and Training), New Delhi read with Section 24 of the RTI Act, 2005."*

The Appellant admitted to having received the copy of the averred written submissions but agitated against the claim of the CPIO that the DIT (Inv.) is exempt from the purview of the RTI Act and urged the Commission to refer to certain earlier decisions where relief has been ordered in similar cases.

Decision:

The Commission based on a perusal of the facts on record finds that the reply of 11.03.2020 adequately sufficed the information sought for in the RTI Application in terms of providing the status of the TEP. Nonetheless, the written submissions of the CPIO dated 11.02.2022 answers all the gaps that were pertinent in the facts of the instant case at the stage of filing the Second Appeal. The Appellant having received a copy of the averred written submissions is now aggrieved with the merits of the action taken on his TEP, which is not amenable to the jurisdiction of the Commission under the RTI Act. Further, a bare perusal of the case records suggests that the TEP is premised on a family feud and has no concern whatsoever to allegations of corruption, hence no further disclosure in this respect is warranted in the matter in keeping with the provision of Section 24 of the RTI Act.

In this context, the Commission is guided by a judgment of the Hon'ble Delhi High Court in the matter of ***Dr. Neelam Bhalla vs Union Of India & Ors [W.P.(C) 83/2014]*** dated **03.02.2014**, which held as under:

"4. Having heard learned counsel for the petitioner, this Court is of the view that once the CIC has held that DRDO is an exempted organisation under Section 24 of RTI Act and the information sought does not pertain to corruption and/or human rights violation, it was not open to the CIC to carve out any further exemption...." [Emphasis Supplied]

The said judgment was later upheld by a division bench of the Court in **LPA 229/2014** on **11.03.2014**.

In view of the foregoing, no relief can be ordered in the matter.

The appeal is disposed of accordingly.

Saroj Punhani (सरोजपुनहानि)
Information Commissioner (सूचनाआयुक्त)

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रति)

(C.A. Joseph)
Dy. Registrar
011-26179548/ ca.joseph@nic.in
सी. ए. जोसेफ, उप-पंजीयक
दिनांक /

