

CENTRAL INFORMATION COMMISSION

Room No. 308, B-Wing, August Kranti Bhawan, Bhikaji Cama Place, New Delhi-110066

File No.CIC/LS/A/2013/000543

Appellant	Lt. Col.(Retd.) R. Bansal
Respondent	Army Welfare Housing Organisation(AWHO).
Dates of hearing	15 th March, 12 th April, 2 nd May & 27 th May, 2013
Date of decision	4 th July, 2013

Facts :-

The facts, in brief, are that Lt. Col.(Retd.) R. Bansal and his wife Smt. K. Bansal were registered as co-applicants for the allotment of a flat in the AWHO's Scheme at Yelahanka. There was inordinate delay in the allotment of the flat. Besides, there was also cost escalation. In this connection, by RTI application of 29.1.2013, the appellant had sought the following information from the AWHO :-

“(a) Under what all heads/ subheads/factors/sub factors-our petition to COAS, as per you, was examined ‘in detail’.

(b) Who all examined, & what was/were, each examiner's, detailed comments-please forward a CTC copy of each (with terms of Reference given to the examiners) of their comments, there to.

(c) Which all persons/appointments/officers/offices were & now/stand included, under term (mentioned in letter dated 16 Jan 12) – “all concerned”. Request please send their detailed list, with designation (s), official addresses & contact numbers- landline & mobile.

(d) Please refer para 11, of our letter dated 05 Nov 2011, to Maj Gen K Majumdar, ADG C&W, AG Branch, Army Headquarters, under which we sent enclosures & appendices to him, in that we had requested – an opportunity to us, for a response to/on AWHO submitted documents/information please. Please send a CTC copy each of the response(s)/information/documents, AWHO must have sent, in response to our petition/sent four appendices, with/under our letter dated 05 Nov 2011.

- (e) Please refer, Appendix 'C' sent to Maj. Gen. K. Majumdar, enclosed under our letter dated 05 Nov 2011, we had made certain requests, as option 'B' therein. Please execute the option 'B'.
- (f) Requests, by us, if required for additional information, will follow, after receipt of information/documents, requested in above paras & sub paras."
2. Col. Binod Kumar, Director, RTI(PIO), through his covering letter dated 18.5.2012 had forwarded certain information received by him from the office of the AWHO, New Delhi. This letter reads as follows :-

**"Lt. Col. Rakesh Bansal(Retd.),
42, Saraswati Vihar, Raipur Road,
Dehradun, Uttara Khand-248001.**

AWHO PROJECT : BANGALORE (YELAHANKA PART 'A')

1. Reference your letter No. RB-KB/AWHO/Pers/08 dated 27 Jan 12 addressed to Maj. Gen K. Majumdar ADG C&W.
2. It may be appreciated that your concerns about the delay in the project as well as increase in the costs of the Dwelling Units (DUs) have also been concerns for this Organisation.
3. The delay in commencement of the project was brought to the notice of the DG DC&W. Adjutant General (Chairman) as well as the Chief of the Army Staff and it was appreciated by them that the delay was beyond the control of this Organisation in spite of all the efforts which were made to expedite the approval of the plans before commencement of the work. His Excellency the Governor of Karnataka and the concerned Minister were also approached to resolve the matter.
4. There has been a constant increase in the cost of the construction materials ever since the project was conceived. The reasons for the increase have already been communicated to all concerned and it is once again reiterated that there was increase in the Super Areas of the DUs from those which were initially announced. There was considerable increase in the cost of

construction materials apart from levy of Service Tax and Labour Cess. There was also considerable improvement in the Specifications and the finishes as compared to what was planned at the initial stage. It is a well known fact, which has been widely publicized in the newspapers and other media, that there had been unprecedented increase in the cost of construction between the period 2006 – 2008. Thereafter, also there has been a constant increase in the cost of construction materials which has lead to the increase in the costs of the DUs.

5. The above aspects were brought to the notice of DG D C&W and AG before announcing the Costs of the DUs and commencement of the work. The Costing of the DUs has been scrutinized in detail at the level of DG DC&W and has also been perused by AG and COAS.

6. Your representation to the COAS has also been considered in detail at appropriate level. ADG C&W letter no. B/49556/Pet/AG/CW Coord dated 16 Jan. 12 may please be referred.”

3. Dissatisfied with the response of the CPIO, the appellant had filed first appeal which was disposed of by FAA through order dated 23.7.2012 mentioning therein that he was satisfied that the adequate available information had been provisioned by the CPIO vide letter dated 18.5.2012.

4. Aggrieved with the above orders, the appellant has filed the present appeal.

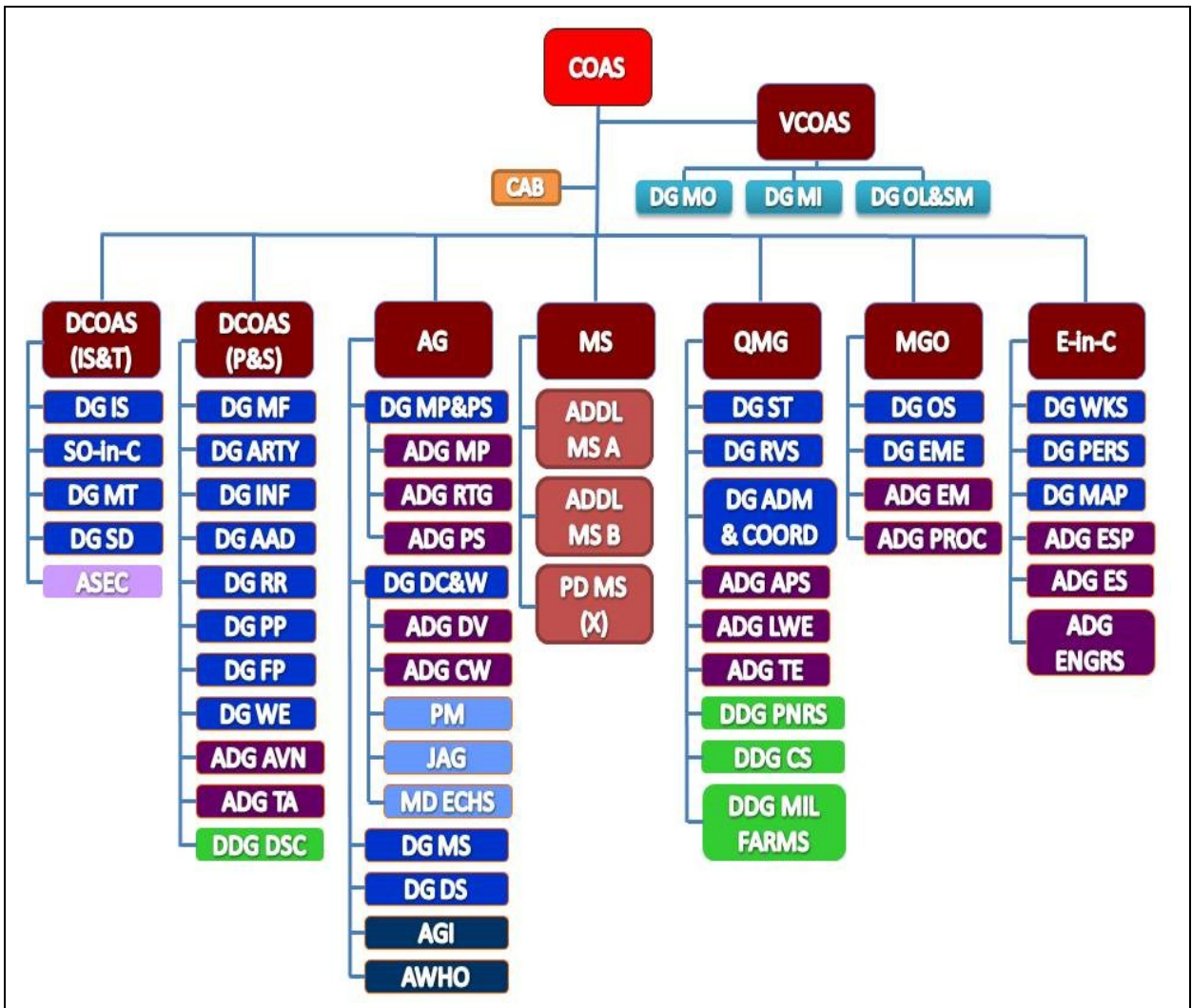
5. The matter was initially heard by the Bench of Shri M.L. Sharma, IC, on 15.3.2013. The appellant was present along with his wife Smt. K. Bansal. The AWHO was represented by Advocate A.K. Tiwari. It was explained to the appellant that as per several decisions of this Bench, the AWHO was not held to be Public Authority under section 2(h) of the RTI Act. The appellant, however, submitted that the issue raised by him was extremely complex and raised an important issue of law concerning the constitution and functioning of the AWHO and requested for the constitution of a Full Bench to decide this matter. In view of this, the Chief Information Commissioner was pleased to constitute the Full Bench consisting of the following :-

- Shri Satyananda Mishra, CIC;
- Shri M.L. Sharma, IC; and
- Shri Vijay Sharma, IC.

6. The Bench heard this matter on 12.4.2013. The appellant was present along with his wife Smt. K. Bansal. The AWHO was represented by the following :-

- Advocate A.K. Tiwari;
- Col. Binod Kumar, Director, RTI, Army Headquarters;
- Col.(Retd.) R.K. Sabharwal, Director-ADM(AWHO); and
- Maj. R.K. Panhotra.

7. The appellant has filed a detailed representation which is taken on record. It is his contention that the AWHO is Public Authority under section 2(h) of the RTI Act. His first and foremost submission is that by the Army's own admission, the AWHO is its biological child. It is an inseparable part of the Army. The chart submitted by him depicting the Army's broad structure wherein the AWHO figures in the Adjutant General's Branch is extracted below:-



8. It is also the appellant's contention that along with various other Branches of the Army, the Adjutant General's Branch functions directly under the Chief of Army Staff(COAS). The AG has a large number of organizations/Branches working under him and the AWHO is one of such organizations/Branches. Thus, the AWHO is responsible to the COAS through the AG. Both the COAS & AG have complete control over the affairs of the AWHO. It is his contention that when Army is a Public Authority per se, the AWHO, being an inseparable part of the Army, can not claim that it is not public authority under the RTI Act.

9. The appellant has also relied on letter No. B/03015/AWHO/NOC/OA dated 21.10.2010 of the AWHO under the title 'To whom it may concern' which clearly states that the AWHO is controlled by the Board of Management headed by Adjutant General as ex-officio Chairman. The said letter is extracted below :-

"1. In connection with DUPLEX SINGLE UNIT ON 300 Sqyd allotted to No. IC – 17083M Rank Lt.Col (R) Name Rakesh Bansal at our Bangalore, - Yelahanka project vide AWHO membership No. EOF/DS3/98301/AR/BGY/2004 it is certified that Sale Deed/Lease Deed between the AWHO and Private Party has been finalized. Conveyance Deed when executed with the allottee within the rules laid down, AWHO will have no objection for the allottee to mortgage that above flat/property to PUNJAB NATIONAL BANK, RETAIL ASSET BRANCH, DEHRADUN.

2. It is certified that AWHO is controlled by the Board of Management headed by Adjutant General as ex-officio Chairman. All other members of the board are serving senior officers of the Army, the Managing Director of AWHO and civilian officers of Ministry of Defence (Finance).

3. It is certified that the land is totally unencumbered at present and in future no action will be taken by (AWHO) which will make it encumbered.

4. It is further mentioned that the Army Welfare Housing Organisation is registered as a society under the Societies Registration Act XXI of 1860 under certificate issued by the Registrar of Societies, Delhi with certificate No. S/9142 dated 20 Mar, 1978."

10. To buttress this point further, the appellant has relied on the Minutes of the meeting of the Board of Management of the AWHO held on 16.2.2012. As per this document, the meeting was held in E-in-C's Branch, Kashmir House, Rajaji Marg, New Delhi, which was attended by Lt. Genl. Jai Prakash Mehra, AG, and eleven other officers. This document, which was duly signed by the attendees, is reproduced below :-

“ARMY WELFARE HOUSING ORGANISATION

BOARD OF MANAGEMENT MEETING : 16 FEB 2012

The following officers attended the Board of Management Meeting of Army Welfare Housing Organisation(AWHO) held at 1000 hrs. on 16 Feb 2012 at Main Conference hall, E-in-C's Branch, Kashmir House, Rajaji Marg, New Delhi-110011 :-

Ser No.	Rank & Name	Appointment	Designation on BOM	Sig-nature
1.	Lt. Gen. Jai Prakash Nehra, AVSM	Adjutant General AG's Branch, Army HQ	Chairman (Ex-officio)	Sd/-
2.	Lt. Gen. Munish Sibal, AVSM	Quarter Master General QMG's Branch, Army HQ	Vice Chairman (Ex-officio)	Sd/-
3.	Lt. Gen. Vijai Sharma, AVSM	Engineer-in-Chief	Member (Ex-officio)	Sd/-
4.	Maj Gen S Narasimhan, VSM	Managing Director AWHO	Member	Sd/-
5.	Maj Gen YC Tharakan, VSM	MG-IC-Adm HQ Southern Command	Member (Ex-officio)	Sd/-
6.	Maj Gen Amar Krishna	MG-IC-Adm HQ Eastern Command	Member (Ex-officio)	Sd/-
7.	Maj Gen Neeraj Bali, SM	MG-IC-Adm. HQ Western Command	Member (Ex-officio)	Sd/-
8.	Maj. Gen GS Narang	MG-IC-Adm HQ Central Command	Member (Ex-Officio)	Sd/-
9.	Maj Gen V Menon, VSM	MG-IC-Adm HQ Northern Command	Member (Ex-officio)	Sd/-
10.	Maj Gen SK Jha, SM, VSM	MG-IC-Adm HQ South West Command	Member (Ex-officio)	Sd/-
11.	Brig Bikram Singh	Brig. Adm. HQ Army Trg Command	Member (Ex-Officio)	Sd/-

12.	Col PRS Sirohi	Secretary AWHO	Secretary	Sd/-
	IN ATTENDANCE			
13.	Brig A.K. Sarkar	Dy MD		Sd/-
14.	Col. KPR Singh(Retd)	Dir(F&A)		Sd/-
15.	Mr. Ravinder Bhatia	Chartered Accountant, AWHO		Sd/-

”

11. It is, thus, the appellant’s contention that the Board of Management of the AWHO entirely comprises of Army officers viz. three Lieutenant Generals, seven Major Generals and a number of Brigadiers and Colonels. According to him, the AWHO is nothing but a pure and simple Army organisation.

12. Further-more, the appellant has relied on this Commission’s decision dated 18.02.2009 in D.M. Gautam –Vs- Indian Railways Welfare Organisation(IRWO) (File Nos. CIC/OK/C/2008/00570, CIC/OK/C/2008/00576, CIC/OK/C/2008/00595). The facts in these cases were that the IRWO had received the loan of Rs. 10 crore from the Ministry of Railways which had been re-paid. The IRWO had also taken a loan of Rs. 6 crore from various Railway PSUs which was also re-paid by the IRWO, minus an amount of Rs. 1.20 crore. The Member(Staff), Railway Board, was the ex-officio, Chairman of the IRWO. A representative of the Ministry of Railways was also on the Management Board. IRWO was occupying about 3000 sq. ft. of Government space for its Headquarters office in Shankar Market, Connaught Place, New Delhi, at a nominal lease/licence fee of just Rs. 12,400/- for 21 years. In the above facts and circumstances, the Commission came to the following conclusion :-

“9. After giving thoughtful consideration to the submissions and supportive documents provided by both of the parties and keeping in view the facts and circumstances of the Case, the Commission accepts the submissions of the Complainant/Complainants. The Commission finds that IRWO is indirectly owned, controlled and substantially financed by the Railway Board, Ministry of Railways. In fact, the initiation of the registration of the Society was itself taken by the Ministry of Railways and the basic infrastructure including land was also provided by the Railway Board and Ministry of Railways and the basic infrastructure including land was also provided by the Railway Board and Ministry of Railways. Had the Ministry of Railways not provided the basic infrastructure to the IRWO, it would never have come into existence. The help by way of loan constitutes indirect financing of an organization/Society. The

land has also been provided to the IRWO at a very nominal rate in Delhi, which is also constitutes indirect financing from the Government. The RTI Act creates a regime of transparency and accountability in an Organization. The Commission is unable to understand why the officials of IRWO are so hesitant in creating a regime of transparency in their Organization, which is in the interest of the Organization itself. IRWO works for the welfare of Railway Employees and if a regime of transparency is created in the Organization, the faith of the Railway Employees would be strengthened in it.

10. Hence, keeping in view the facts and circumstances of the present case and in the interest of transparency and accountability, the Commission declares the IRWO a Public Authority under the Right to Information Act 2005. Shri S.P.S. Jain, the Managing Director, Indian Welfare Organization, New Delhi, is directed to appoint the Central Public Information Officer and Assistant Central Public Information and the First Appellate Authority in the organization within 15 days of the receiving the Order of the Commission and comply with the other provisions of the RTI Act 2005, within 120 days of the receiving of the Order of the Commission. The Respondent is, further, directed to provide the desired information to the Complainants within 15 days of receiving the Order of the Commission.”

13. It is the appellant’s contention that the AWHO is functioning on the same lines as the IRWO and, therefore, the ratio of the aforesaid decision applies in the present case, more so when the decision of the CIC in the IRWO case has been upheld by the Delhi High Court in order dated 3.5.2010 in IRWO –Vs- D.M. Gautam & Anr. (Writ Petition(C) No. 8219/2009).

14. It is the further contention of the appellant that Army Officers are being deputed to the AWHO on regular basis on terms & conditions prescribed by MoD. As per MoD letter No. 33262/AWHO/MS.3V/1708-II/D(Pay/Services) dated May 11, 1982, the period of deputation of an Army Officer to the AWHO is to be treated as **Army service for purposes such as seniority, increment of pay, pensionary awards and leave etc. in the Army.** Besides, an officer is entitled to retain the acting rank held by him at the time of deputation. Furthermore, the officers continue to be eligible for all Army facilities, such as purchase at Army shops, canteens etc. The circular further says that the Army officers will be entitled to draw pay and allowances as per the rates applicable to the regular Army officers. More importantly, the officers posted to the

- (e) **The Under Secretary D(Est.2), Ministry of Defence who is the Drawing and Disbursing Officer for the Ministry of Defence(Sectt) will also be the DDO in respect of the above expenditure. The amount will be disbursed to the Chairman, Army Welfare Housing Organisation, Army Headquarters, Room No.....South Hutments Kashmir House, New Delhi-11.**
- (f) **Necessary funds have been provided in the budget for 1983-84 Grant No. 18, Ministry of Defence. The amount authorized is debitable to the Head indicated in the Annexure enclosed.**
- (g) **The loan will be repayable over a period of 15 years. The essential details of the loan and rate of interest to be charged are given in the attached annexure.**
- (h) **Theof loan by AWHO will be credited to the H.... given in the Annexure and recovery of the interest to Head '049' Interest Receipt: -D- Other Interest Receipts-Interests on loan and advance by the Central Government Interest on loan to AWHO.**

2. This issues with the concurrence of the Integrated Finance Division vide their U.O. No. 1632/MO/83 of 1983.

**Yours faithfully,
Sd/-
S.K. Sangar
Desk Officer.”**

16. The appellant has produced yet another letter dated 18.3.1985 of the MoD conveying the sanction of the President of India regarding the grant of further loan of Rs. 5 crores to the AWHO. Another letter dated 31.3.1986 also conveys the sanction of the President of India in regard to the grant of further loan of Rs. 02 crores to the AWHO. It is, thus, the appellant's contention that the AWHO is not only controlled by the Army but is also indirectly financed by the Central Government.

17. More importantly, the appellant would submit that the AWHO is getting Income Tax exemption under section 10(23AA) of the I.T. Act and is, thus, indirectly, financed by the Central Government.

18. As the hearing remained inconclusive, the matter was adjourned to 2nd May, 2013.

19. The matter is called for hearing on 2nd May, 2013. The appellant is not present. The AWHO is represented by :-

- Adv. A.K. Tiwari;
- Brig. Binod Kumar;
- Col : P.R.S. Sirohi;
- Smt. Indulekha Halder; and
- Maj. P. Nagraj.

20. Adv. Tiwari refutes the appellant's contentions in his brief address to the Commission and he seeks short adjournment to address the Commission at length and file a detailed representation on behalf of AWHO. Hence, the matter is adjourned to 27th May, 2013.

21. As scheduled, the matter is further heard on 27.5.2013. The appellant is not present. The AWHO is represented by :-

- Shri A.K. Tiwari, Advocate
- Brig. Binod Kumar
- Col. P.R.S.Sirohi
- Col. A. Rajiv
- Mrs. Indulekha Halder,AOG AG (Coord).

22. Adv. Tewari has addressed the Commission at length. He argues that the AWHO is a Society registered with the Registrar of Societies, Delhi, under the Societies Registration Act, 1980. It is a private body and is not amenable to the provisions of RTI Act. The objective of the AWHO is to provide dwelling units to serving and retired Army personnel and their widows on 'no profit no loss' basis. In fact, it is an Organisation meant for the welfare of the retired and serving Army personnel. As to the control of the Army on the AWHO, Adv. Tewari would submit that it is, no doubt, true that a number of senior serving Army officers are represented on the Board of Management of the AWHO but they are there in their ex-officio capacity. The AWHO does not give them any remuneration for the services rendered. Their role is advisory in nature.

Decisions in the AWHO are taken by its Director General. As regards the question of the Board of Management of the AWHO being headed by the Adjutant General, Adv. Tewari would submit that AG is there in his ex-officio capacity and does not derive any benefit from this position. Adv. Tewari would further submit that deputation of a number of Army officers to the AWHO is regulated by the guidelines issued by the MoD to the Army Headquarters. It is a routine administrative activity and nothing much should be read into it. He would also submit that the deputationist officers draw their salary and other allowances from the funds of the AWHO and not from the regular Army and mere deputation of Army officers to the AWHO does not render the AWHO a Public Authority. In sum and substance, it is Adv. Tewari's contention that despite overwhelming presence of senior Army officers in the Board of Management of the AWHO, it is not controlled either by the Army Headquarters or by the MoD.

23. As to the question of the AWHO being indirectly financed by the Government, Adv. Tewari would submit that grant of certain loans to the AWHO by MoD does not amount to financing. The fact of the matter is that the AWHO has taken loans from nationalized Banks and other institutions and even from the MoD from time to time as per its requirement. These loans are being repaid on the terms and conditions as settled between the parties. It is a commercial transaction and cannot be said to be indirect financing of the AWHO.

24. As to the question of Income Tax exemption being availed by the AWHO, he would submit that this exemption is not peculiar to the AWHO. There are thousands of Charitable/Welfare Organisations in the country which are availing this tax exemption but they cannot be held to be public authority on this count alone.

25. In essence, it is Adv. Tewari's submission that the AWHO is not controlled by the AHQ, nor is it financed, let alone substantially financed by the MoD. He, therefore, makes a passionate plea for dismissal of the appeal.

26. Col. P.R.S. Sirohi has filed a detailed representation dated 25.4.2013 on behalf of the AWHO which is taken on record. It would be pertinent to highlight the salient points made in this representation :-

(i) The AWHO is a Society registered with Registrar of Societies, Delhi, under the Societies Registration Act, 1860, with its headquarters at South Hutments, Kashmir House, Rajaji Marg, New Delhi;

- (ii) The chief objective of the AWHO is to provide dwelling units to serving and retired Army personnel and their widows on 'no profit no loss' basis;
- (iii) The AWHO does not get any grant or advance from AG/AHQ;
- (iv) The AWHO takes loan from Banks/HDFC/National Housing Bank, as per its requirement from time to time;
- (v) A Board of Management administers the funds of the AWHO;
- (vi) The Executive Committee of the AWHO's Board of Management carries out day to day management of the AWHO and assists the Board of Management. The Board of Management is headed by the Chairman who is Adjutant General of the Army and functions as such in ex-Officio capacity;
- (vii) The issue relating to the status of the AWHO was raised in the Parliament in 1980, and the MoS in the Ministry of Defence had taken the stand that the the MoD was not concerned with the affairs of the AWHO;
- (viii) No Member of the Board of Management is nominated by the Central Government, nor can he be removed by it. Further, neither the Central Government nor the AHQ can issue any special or general directions to the AWHO;
- (ix) It is neither a Branch of the office of AG or Army Headquarters; nor is it an instrumentality of the Central Government;
- (x) The website of Indian Army shows the AWHO as a part of DG's Branch but this website has not been created by the AWHO. Regardless of the above, the fact remains that the AWHO is not a part of the AG's Branch. This anomaly has to be explained by the Army Headquarters and not by the AWHO;
- (xi) The loans advanced to the AWHO by the MoD do not reflect the Government's control over AWHO or on its functioning;
- (xii) Holding of Annual Board of Management meetings in the premises of E-in-C's Branch or in the AG's office does not reflect Army's control over the AWHO;

(xiii) Deputation of regular Army Officers to the AWHO is regulated by the directions issued by MoD to the Army Headquarters and not to the AWHO. This document also does not reflect control of the MoD/AHQ over the AWHO;

(xiv) The AWHO is operating on 'no profit no loss' basis and does not receive any grants from the MoD/AHQ. The salaries of the deputationist Army officers and personnel are being paid by the AWHO from its own funds;

(xv) A number of senior Army officers are represented on the Board of Management of the AWHO in their ex-officio capacity from all the commands of the Army but this does not necessarily establish control of Army over the affairs of the AWHO;

(xvi) Tax exemption granted to the AWHO under the Income Tax Act is not unique to the AWHO. Such exemption is being granted to thousands of other Welfare Associations, Charitable Trusts and Educational Foundations etc. Mere grant of Income Tax exemption cannot render the AWHO a public authority

27. Ms. Indulekha Haldar, Deputy Director General, AG's Branch, has also filed a brief representation dated 2.5.2013 in which she has argued that the funds of the AWHO are created by its welfare activities and short term borrowings from various finance agencies and that the Army Headquarters or the MoD does not give any financial aid/assistance to the AWHO. She has also contended that the MoD or AG's Branch does not exercise any control over the AWHO. The Chairman and other Members of the Board of Management and Executive Committee who are senior serving Army officers perform their functions purely in an ex-officio capacity. Para 02 of her representation is extracted below :-

“2. The status of AWHO is as follows :-

(a) AWHO is a Society registered with the Registrar of Societies, Delhi under the Societies Registration Act XXI of 1860 and its affairs are controlled, administered and managed by its Board of management and Executive Committee whose members are appointed in “Ex Officio” capacity.

(b) The funds of AWHO are created by its welfare activity and short term borrowings from various financial agencies. Army Headquarters or the Ministry of Defence does not give any financial

aid/assistance to AWHO. The latter works on a no profit no loss basis and utilizes 3% cost of construction toward establishment expenditure which includes salaries of staff and rental of office accommodation. The staff also includes serving Officers, JCOs and OR whose salaries including all monetary benefits are being funded by AWHO. Establishment cost of AWHO and salaries to staff members are paid by AWHO from the revenues generated from its welfare activities which are funded by the allottees.

(c) Union of India or the Adjutant General Branch of Army Headquarters does not exercise any control over AWHO. The discharge of duties by Chairman and other members of the Board of Management and Executive Committee who are all senior serving Army Officers is purely in an “Ex Officio” capacity.”

DECISION NOTICE AND REASONS

28. The question before the Commission is whether the AWHO is a public authority under section 2(h) of the RTI Act.

29. Section 2(h) of the RTI Act defines ‘public authority’ as follows :-

(h) “public authority” means any authority or body or institution of self-Government established or constituted, --

- (a) by or under the Constitution;**
- (b) by any other law made by Parliament;**
- (c) by any other law made by State Legislature;**
- (d) by notification issued or made by the appropriate Government, and includes any –**

- (i) body owned, controlled or substantially financed;**
- (ii) non-Government Organisation substantially financed, directly or indirectly by funds provided by the appropriate Government;”**

30. It is quite clear to us that the AWHO does not fall in sub clauses (a), (b) & (c) of clause (h) extracted above. Now, the questions that remain to be considered is :-

- (i) whether the AWHO is controlled by AHQ; &/or
- (ii) whether the AWHO is substantially financed by MoD.

31. We will take up issue number (i) first. As noted herein above, the AWHO has been shown as one of the Branches/Offices of the AG's office in the Army's website. Even if the contention made on behalf of the AWHO that the website is the creation of the Army and not that of the AWHO is accepted, the fact remains that during all these years, the AWHO has been treated as a wing of AG's office for all practical purposes. The constitution of the Board of Management of the AWHO, has been depicted in para 10 above. Out of 15 attendees of the Board of Management meeting held on 16.2.2012, three were Lieutenant Generals and seven Major Generals. The rest of the attendees were also serving Army officers. In our opinion, the composition of the Board of Management of the AWHO reflects its true character. It is nothing but an extension of the AHQ. As noted above, the Adjutant General has always been the ex-officio Chairman of the AWHO ever since its inception. Various commands of the Army are represented on the Board of Management at very senior levels. All major decisions regarding the functioning of the AWHO are taken by the Board of Management which is under the pervasive control of the serving Army officers, with the AG as its Head. In view of this, we have no hesitation to come to the conclusion that AHQ controls the affairs of the AWHO through the Adjutant General for all intents and purposes. Execution of the policy by the employees of the AWHO, comprising of Army personnel and civilians, in our opinion, does not alter the essential character of the AWHO as an Army organisation. Further-more, regular deputation of Army officers to the AWHO on the terms and conditions determined by the MoD, also reinforces the impression that in quint-essence the AWHO is nothing but an Army Organisation. As the Army is public authority u/s 2(h), we hold that the AWHO, by virtue of its being under the pervasive and effective control of the Army, is also a public authority by parity of reasoning.

32. Now we come to the question of whether the AWHO can be said indirectly financed by the Central Government. Three instances of grant of loan by the MoD to the AWHO have come on record. In our opinion, loans cannot be construed as grants as loans are repayable by the borrower. These loans simply reflect the MoD's sympathetic and helpful attitude towards the AWHO. However, the income tax exemption granted to the AWHO under the Income Tax Act stands on a different footing. No firm figures have been proffered before us regarding the exemption availed of by the AWHO over the years but this fact has not been denied by the counsel of the AWHO either in oral or written submissions. Exemption from Income Tax, surely, bestows financial benefits on the AWHO.

33. To sum up, we hold that the AWHO, though on paper a separate entity, is nothing but an extension of the Army by virtue of being under the all pervasive control of the senior serving Army officers, including the AG. We, therefore, hold that the AWHO is public authority u/s 2(h) of the RTI Act. Hence, we direct the Director General, AWHO, to designate a CPIO and first Appellate Authority under the RTI Act with in **04 weeks** of the receipt of this order. After assumption of office, the CPIO would respond to the RTI application in question as per law in 30 days time. The appellant reserves the right to appeal against the order of the CPIO under the provisions of section 19 of the RTI Act.

Order reserved and pronounced on 4th July, 2013.

(Vijay Sharma)
Information Commissioner

(M.L. Sharma)
Information Commissioner

(Satyananda Mishra)
Chief Information Commissioner

Authenticated true copy. Additional copies of orders shall be supplied against application and payment of the charges, prescribed under the Act, to the CPIO of this Commission.

(K.L. Das)
Deputy Registrar

Address of parties :-

1. The Lt. Col. & CPIO, RTI Cell, ADG AE, G-6, D-Wing,
Sena Bhawan, Gate No. 4, IHQ of MoD(Army),
New Delhi-110011.
2. Lt. Col. R. Bansal(Retd.),
42 Saraswati Vihar, Raipur Road,
Dehradun-248001.