

CENTRAL INFORMATION COMMISSION

.....

F.No.CIC/AT/A/2007/00017

Dated, the 28th March, 2007.

Appellant : Shri S.P. Goyal, Chand Temple of Peace, 2C & 3C, Sarabha Nagar, Ludhiana – 141 001.

Respondents : Shri Roshan Sahay, Director of Income Tax (Inv) & CPIO, Office of the Director of Income Tax (Inv), Ludhiana

Shri V.D.S. Balahara, Director General of Income Tax (Inv) & Appellate Authority, office of the Director General of Income Tax (Inv), Chandigarh.

The appellant, Shri S.P. Goyal has challenged through a second appeal before the Commission the order of the Appellate Authority (AA), Shri V.D.S. Balahara, Director General of Income Tax (Inv), which was dated 23.10.2006. The AA had upheld the order dated 20.9.2006 of the CPIO corresponding to the RTI-request of the appellant, which dated 18.8.2006.

2. A perusal of the RTI-request of the appellant made to the CPIO shows that it was mainly relating to inspection of all files connected with certain search and seizure operation carried out by the public authority against the appellant's "group concerns" (sic) and the correspondence he addressed to the various officers of the public authority in connection with that search and seizure operation. The appellant wants to have access to all the files connected with those operations against his "group concern" (sic) and his letters and telegrams addressed to the officers of the public authority. He has also demanded to know "how many total files you have of our group concerns regarding search & seizure action during October, 1993" and "please inform whether you are keeping all search and seizure files assessee-wise or for the group consolidated files."

3. It needs to be mentioned at the very outset that this is one of a number of RTI-requests which the appellant has been filing with the public authority for information on a matter connected with an investigation launched against "his group concerns" (sic). In similar appeals the Commission had decided that it was not open to the appellant to seek copies of the very letters he had addressed to the public authority — certified or otherwise, from that public authority. As the originator of that correspondence, he was the main custodian of that letter, which cannot be said to be held by or under the exclusive control of the public authority for the simple reason that the information was already accessible to the appellant himself.

4. The second part of his request is a demand to access files connected with search and seizures in his "group concerns" (sic) and the correspondence resting with the letters he was addressing to the public authority.

5. The CPIO and the AA have denied to disclose this information citing the exemption under Section 8(1)(j) of the RTI Act. In their view the information was personal to the appellant and his group concerns (sic) and have had no public purpose. In

their written submission to the Commission, dated 15.2.2007, the respondents have stated that the files requisitioned by the appellant contained information relating to the sources and informants of the public authority whose disclosure would be dangerous to the life and physical safety of such persons and sources.

6. In a similar case of the same appellant, in appeal no.CIC/AT/A/2007/00018, through its decision dated 26.2.2007, the Commission had observed as follows:

“16. This Commission in normal course allows information about action on the petitions made by the citizens to the public authority to be disclosed to the citizens. But it also takes the precaution to ensure that these petitions are not without an element of public purpose in them. The case of the appellant does not fall in that category. He is admittedly at the receiving end of law enforcement function by a public authority and has retaliated by writing a spate of letters to that public authority in connection with that act of law enforcement. In that sense, the public authority was wholly within its right in declining this information to him which was manifestly personal in nature and unconnected with any public purpose. The contention of the public authority is, therefore, upheld.

17. The denial of the certified copies of the letters written by the appellant himself to the public authority is also sustainable in law in so far as the appellant is himself the custodian and originator of those letters. These cannot be said to be in the exclusive control of or held exclusively by the public authority. There is no reason why the information which the appellant himself possesses should be supplied to him by the public authority.”

7. In view of the above, it is the considered view of the Commission in the present case as well that the exemption of Section 8(1) (j) is attracted to the information requested by the appellant.

8. The second point which the respondents have raised is exemption of Section 8(1)(g), which protects from disclosure information which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes. There is very little doubt that the information which the appellant has solicited pertains to law enforcement action by the public authority, i.e. the search and seizure operations. During all such operations, it is normal for such public authorities to receive confidential and guarded information from their informants or other sources. There is every reason to believe that disclosure of the documents and files containing such information may lead to inflicting avoidable injury on such informants as well as compromising their ability to effectively assist the public authority in its law enforcement function by bringing to its notice cases where law may have been violated. Routine disclosure of such information and permission to inspect records where information of this nature may be contained would compromise the very edifice of trust and confidentiality built over years between those providing information and those in the public authority receiving it. This relationship is critical to sub-serving a much larger public purpose, i.e. voluntary compliance with legal provisions by citizens and effective action by the public authority against those found to be violating laws. The Commission has specially noted that nothing can be a more dangerous assault on that relationship, than allowing those being proceeded against for law-breaking to

access the very documents and files which contain the material which forms the basis for initiating action against violation of law. This Commission will undoubtedly protect the right of every citizen regardless of his status or purpose to access information admissible under the RTI Act, but this general rule will perforce have to be modified, when a person at the receiving end of the law-enforcement seeks to subvert the process by invoking the freedom granted under the RTI Act to contrive to access vital information critical to that process. In such cases, the provisions of the law have to be strictly interpreted to make sure that larger public interest is not allowed to suffer.

9. In this particular case — and there are many such cases brought up by the same appellant, the Commission's conclusion is that he is not entitled to receive the information which he has solicited as it attracts exemption of Section 8 (1) (g) of the RTI Act.

10. The decision of the AA is, therefore, upheld and the appeal is rejected.

Sd/-
(A.N. TIWARI)
INFORMATION COMMISSIONER

Authenticated by –

Sd/-
(NISHA SINGH)
Joint Secretary & Additional Registrar

Address of parties:

1. Shri S.P. Goyal, Chand Temple of Peace, 2C & 3C, Sarabha Nagar, Ludhiana –141 001.
2. Shri Roshan Sahay, Director of Income Tax (Inv) & CPIO, Office of the Director of Income Tax (Inv), Ludhiana
3. Shri V.D.S. Balahara, Director General of Income Tax (Inv) & Appellate Authority, office of the Director General of Income Tax (Inv), Chandigarh.