

CENTRAL INFORMATION COMMISSION

Appeal: No. CIC/OK/C/2006/00010, A/2006/00027 & A/2006/00049

Dated, the 30th August, 2006

Name of the Appellant : Shri Mahaveer Singhvi
A-302, Videsh Mantralaya Awas
K.G. Marg, New Delhi.

Name of the Public Authority : Central Public Information Officer
Ministry of External Affairs
New Delhi.

DECISION

Brief Facts:

In his appeal against the CPIO, Ministry of External Affairs, Shri Mahaveer Singhvi had inter alia sought information about the allocation of CFL (Compulsory Foreign Language) to 1999 batch of IFS probationers and also details of his own discharge from service. In its hearing on 27th July, 2006 the Commission allowed time to both, the Ministry of External Affairs and the Appellant, Shri Mahaveer Singhvi, to file further facts as both the parties had applied for review of the Commission's order dated 7th July, 2006 and those would be considered in the next hearing to be held in the second week of August, 2006. The final hearing was held on 24th August, 2006 and was attended by Shri E. Barwa, CPIO and Shri L.D. Rath on behalf of Ministry of External Affairs. The Appellant appeared in person.

2. To recapitulate the case, information was denied to the Appellant on three grounds i.e. (a) it related to personal information, (b) that no public interest was involved and (c) that it relates to matters which are *sub judice*. The Appellant alleged malafide on behalf of the public authority in the denial of information. He stated that information was not personal as it related to public acts done by officials in the discharge of public duties. Whether the matter is sub judice or not, cannot be a defence to deny information regarding the factual aspects of the decision arrived at by a public authority.

Decision:

3. The submissions made by the Respondents in their letter dated 3rd August, 2006 and by the Appellant in his letter dated 5th August, 2006 were deliberated upon by the Commission. At the outset, the Commission set aside the orders passed by Shri Rinzing Wangdi, successor to the first Appellate Authority, Shri Vijay Kumar. In his decision dated 28.2.2006 Shri Vijay Kumar had informed the Appellant that if he wanted to have any information about CFL allotment, the CFL allocation file could be shown to him. Shri Wangdi, his successor had overturned the order on 3.4.2006. The Commission observed that Shri Wangdi had no authority to withdraw the quasi judicial order dated 28th February, 2006 of the first Appellate Authority, which was a statutory authority under the RTI Act in view of the Hon'ble Supreme Court decision in the case of Deokinandan Prasar Vs. The Agra Cooperative Bank (AIR 1972 SC 2497). The Commission further upheld the order dated 28th February, 2006 of the first Appellate Authority to show the file relating to the allotment of Compulsory Foreign Language to 1999 batch of IFS Probationers. As regards the issue of sub-judice, the Appellant made out a strong case against the plea of the Respondents. The Respondents had depended upon proviso to clause (j) of sub-Section 1 of Section 8 of the RTI Act, 2005. This sub-Section reads:

8(1) *'Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,—*

xxx

(j) *information which relates to personal information the disclosure of which has no 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 appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:*

Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.'

The Respondents tried to link this proviso to the conditions of admissibility of questions in Parliament. According to them a question asking for

information on a matter which is under adjudication by a Court of Law having jurisdiction in any part of India would not be admitted for answer. Since the Appellant has gone to the High Court in his appeal against the judgement of Central Administrative Tribunal (CAT) relating to discharge from service, they argued that information could not be given as the matter is sub-judice. It appears to the Commission that in this case two unrelated matters are being linked artificially: the proviso that extends the scope of disclosure of information and does not restrict it, and the Parliament Rule which circumscribes the scope of questions. Were it the intention of Parliament to restrict the scope of this proviso, it would have stated that information which cannot be asked through a parliament question could not be given to the applicant. So there is no direct link between conditions of admissibility of Questions as prescribed by the Rules of Procedure and Conduct of Business in the Lok Sabha/Rajya Sabha and the said proviso. That the proviso is not restrictive but expands the scope of access to information is borne by sub-Section 2 of Section 8 of the Act which makes it abundantly clear that a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests notwithstanding the Officials Secrets Act or any of the exemptions mentioned with sub-section 8(1). That clearly shows that the Act gives paramountcy to the public interest and the exemptions do not constitute a bar to providing information. If it were the intention that no aspect of matters sub-judice can be considered under the Act, this would have been expressly incorporated in clause (b) of sub-Section 1 of Section 8 alongwith other matters prescribed in this clause. The Commission is further of the opinion that the substantive question for determination before the Hon'ble High Court of Delhi is the legality of the ministerial discretion to discharge the probationer from service. So the information on collateral or incidental matters which may enable the Appellant to establish his case of malafide against the Government may not be withheld from him in order to promote transparency and accountability in the working of public authority. Moreover, it does not stand to reason that a person who has gone to court against an alleged arbitrary decision of a public authority concerning him should be denied information about himself on the pretext that it is personal information or the matter is sub-judice on a case filed by himself.

5. The Commission, therefore, orders that its decision dated 7th July, 2006 stands and shall be complied with by the Respondents forthwith.

Sd/-
(O.P. Kejariwal)
Information Commissioner

Authenticated true copy:

Sd/-
(L.C. Singhi)
Addl. Registrar

Cc:

1. Shri Mahaveer Singhvi, A-302, Videsh Mantralaya Awast, K.G. Marg, New Delhi-110001
2. Shri E. Barwa, Central Public Information Officer, Ministry of External Affairs, Akbar Bhawan, Room No.818, New Delhi-110001.
3. Officer Incharge, NIC
4. Press E Group, CIC