

**Designated Appellate Authority** : First Appellate Authority  
**Postal Address** : The Joint Commissioner of Income Tax, Range - 4,  
Room No.-1, A-Wing,  
6<sup>th</sup> Floor, Ashar IT Park  
Wagle Industrial Estate, Road No 16-Z  
Thane (W) – 400 604

**Date** : 18/12/2012

**Name and Address of the appellant** : **Anil Bairwal,**  
National Coordinator,  
Association for Democratic Reforms

**Name and address of the PIO** : **Mr A.P.Jakhanwal,**  
Central Public Information Officer  
Income Tax Officer, Ward 4(1)  
Thane (W) – 400 604

**Date of submission of RTI request** : **1/10/2012**

**Date of payment of Additional fee (if any)** : **None**

**Particulars of the order appealed against:**

That the information sought by the appellant cannot be furnished in view of Supreme Court's decision in the case of Girish Ramchandra Deshpande vs. Central Information Commissioner & Others. (Annexure-1)

**Brief facts of the case:**

This is with reference to my RTI application No: ADR04/RTI/CCIT-BVA/01 dated 01-10-2012 asking for copies of all pages of the IT returns filed by Bahujan Vikas Aaghadi for the Assessment years 2002-03, 2003-04, 2004-05, 2005-06, 2006-07, 2007-08, 2008-09, 2009-10, 2010-11, 2011-12 and 2012-13. A copy of the above mentioned RTI application filed on 01-10-2012 is attached herewith. (Annexure-2)

As per the reply from the ITO in letter No: 329 dated 04/12/2012, I was informed that the said information could not be provided in view of the Supreme Court's decision in the case of Girish Ramchandra Deshpande vs. Central Information Commissioner & Others.

**About the Appellant:**

Anil Bairwal is part of Association for Democratic Reforms (ADR) which works for improving governance, democratic, political and electoral process in the country. Earlier also, ADR had filed a Public Interest Litigation (PIL) in Delhi High Court which resulted in the landmark and historic judgment of Supreme Court (March 13, 2003) making it mandatory for candidates contesting elections of State Assemblies and Parliament to disclose their criminal and financial antecedents, by way of a sworn affidavit to be filed as an essential part of the nomination form.

Also, based on a RTI application filed by ADR to get Income Tax details of the Political Parties, the Information Commission vide its order number *CIC/AT/A/2007/01029 & 1263-1270*; *Date of Decision: 29.04.2008* directed the public authorities (Income Tax Departments) holding Income Tax returns of the political parties to make them available to the appellant. (Annexure-3)

### **Grounds for Appeal:**

The Supreme Court's decision in the case of *Girish Ramchandra Deshpande vs. Central Information Commissioner & Others*, dated 3<sup>rd</sup> October, 2012, says that the individual's personal information such as assets & liabilities, movable & immovable properties cannot be provided as it qualifies to be under section 8(1)(j) of the RTI Act.

1. Section 8(1)(j) of the Right to Information Act, 2005 is not applicable here because of the following reasons-

Section 8(1)(j) of the RTI Act, 2005 states:

*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.*

The information sought is in the larger public interest and does not warrant to invasion of the privacy of the individual. In fact, **the Central Information Commission vide its order number *CIC/AT/A/2007/01029 & 1263-1270*; Date of decision: 29/04/2008 directed the public authorities (Income Tax Departments) holding Income Tax returns of the political parties to make them available to the appellant.** It passed the judgement stating that the tax returns of political parties were to be made public and also directed the authorities to furnish copies of the IT returns of the parties to the public.

The Commission in its order said that:

*"In this case, the information asked for is available with the public authority, i.e. Income Tax Department and is asked for by a citizen. The information relates to various political parties and has been provided by them to a Public Authority in obedience to the provisions of law."*

.....

*"Thus information, which is otherwise exempt, can still be disclosed if the public interest so warrants. That public interest is unmistakably present is evidenced not only in the context of the pronouncements of the Apex Court but also the recommendations of the National Commission for the Review of the Working of the Constitution and of the Law Commission."*

2. Also, in one of the judgements of CIC (*CIC/DS/A/2011/000666* Dated 02/11/2011), in response to the complaint by the appellant (Association for Democratic Reforms), **a show-cause notice was issued to the PIO, Kozhikode for not providing the IT returns of a political party as requested by the appellant.** (Annexure-4)

The Commission in its order said that  
"The Commission expresses surprise at the manner in which the CPIO and the first Appellate Authority while being in the full knowledge of the decision of the Central Information Commission dated 29 April referred to above have chosen to ignore it"

.....  
"Through this order notice is issued to the CPIO under provisions of Section 20(1) to show cause why penalty should not be imposed upon him for mala-fidely denying the request for information and knowingly obstructing the furnishing of information"

Since political parties are working in the public domain and using public funds, it hence proves that the RTI and this First Appeal is in the larger public interest. Therefore, as per the directions of the Central Information Commission, the information sought by the appellant is clearly to be made available under the Right to Information Act.

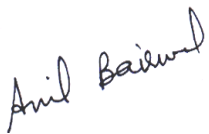
**Prayers or relief sought and grounds thereof:**

Based on the above mentioned judgement of the Central Information Commission, the appellant has already sought information pertaining to Income Tax Returns of various Political Parties from Income Tax Department and has been provided the same for a number of political parties.

Hence keeping in mind the above grounds for appeal and the fact that this information is clearly to be given under RTI as per the order of Central Information Commission, I request you to kindly direct the PIO/CPIO concerned to provide the requested information to the undersigned at the earliest.

I hereby declare that the aforementioned facts are true to the best of my knowledge.

Appellant's signature



Anil Bairwal  
Association for Democratic Reforms  
Table No 4, "Kiwani Centre", 4<sup>th</sup> Floor,  
B-35, Qutub Institutional Area,  
New Delhi-110016  
Phone – 011-65901524

**Enclosures:**

- Annexure 1:** Copy of the letter from the concerned ITO
- Annexure 2:** Copy of the original RTI Application
- Annexure 3:** Copy of the CIC Judgement: *CIC/AT/A/2007/01029 & 1263-1270*
- Annexure 4:** Copy of the CIC Judgement: *CIC/DS/A/2011/000666*

**INCOME TAX DEPARTMENT**  
**OFFICE OF THE JOINT COMMISSIONER OF INCOME-TAX, RANGE-4,**  
Room No. 01, A-Wing, 6<sup>th</sup> Floor, Ashar IT Park,  
Wagle Industrial Estate, Road No. 16-Z, Thane (W): 400604.  
Phone : 022-25805346

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|-----|-------------------------------------|--|
| 01. | Name & address of the appellant     | : Shri Anil Bairwal,<br>Association for Democratic Reforms,<br>Table No. 4, B-1/6, Hauz Khas<br>New Delhi-110016 |
| 02. | Date of receiving application       | : 24.12.2012   |
| 03. | Due date for disposal               | : 23-01-2013   |
| 04. | Information sought as per provision | : Section 6 of RTI Act, 2005   |
| 05. | Date of order                       | : 23-01-2013   |
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**ORDER U/S. 7(1) OF RIGHT TO INFORMATION ACT, 2005**

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The appeal in this case has been received in this office on 24/12/2012 by post. The appellant vide his letter dated 18/12/2012 has appealed against the order passed u/s 7(1) of the RTI Act, 2005 by the Income Tax Officer, Ward 4(1), Thane vide order No. 329 dated 04/12/2012.

The appellant vide his RTI application dated 01/10/2012 had sought information from the Income Tax Officer, Ward 4(1), Thane regarding copies of all pages of the IT returns filed by Bahujan Vikas Aaghadi for the Assessment years 2002-03, 2003-04, 2004-05, 2005-06, 2006-07, 2007-08, 2008-09, 2009-10, 2010-11, 2011-12 & 2012-13. The Income Tax Officer, Ward 4(1), Thane informed that the Bahujan Vikas Aaghadi has filed its return of Income for A.Y. 2011-12 only in this office but had declined to provide the copies of all pages of the IT returns filed by Bahujan Vikas Aaghadi for the said assessment years in view of the Supreme Court's decision in the case of Girish Ramchandra Deshpande Versus Cen. Information Commr. & Ors. Aggrieved by the order of the Income Tax Officer, Ward 4(1), Thane the applicant filed an appeal in this office on 24.12.2012.

The applicant vide letter dated 26.12.2012 was given opportunity to attend before the undersigned on 11.01.2013. However, the applicant had not attended the office of the undersigned nor sought any adjournment. In view of this, the appeal is disposed of on the basis of information available on record.

The applicant in his appeal has relied on the order dated 29.4.2008 of the Central Information Commission in the case of Ms. Anumeha, C/o Association for Democratic Reforms, B1/6, Hauz Khas, New Delhi-110 048 wherein it has been held that the tax returns of political parties were to be provided by Public Authorities and also directed the authorities to furnish copies of the IT returns of the political parties. Following this order of the CIC, the CPIO is directed to provide appropriate information as applicable (in view of the CIC's decision dated 29/04/2008 quoted by the appellant) within 15 days of the date of this order and in any case not later than 11<sup>th</sup> Feb 2013. .

In case the appellant is not satisfied with this order, he may file an appeal against this order before the Appellate authority i.e. Central Information Commission, Room, No. 307, II Floor, August Kranti Bhawan, Bhikaji Cama Place, New Delhi-110066.

sd -

[ANURADHA V RAVI ]

Frist Appellate Authority,  
Jt. Commissioner of Income-tax, Range-4  
Thane

✓ Copy to: 1) **Shri Anil Bairwal**  
Association for Democratic Reforms,  
Table No. 4, B-1/6, Hauz Khas  
New Delhi-110016

2) CPIO, ITO 4(1), Thane, for necessary compliance

*NRD 23/1/2013*

Frist Appellate Authority,  
Jt. Commissioner of Income-tax, Range-4  
Thane



**INCOME TAX DEPARTMENT**  
**OFFICE OF THE JOINT COMMISSIONER OF INCOME-TAX, RANGE-4,**  
Room No. 01, A-Wing, 6<sup>th</sup> Floor, Ashar IT Park,  
Wagle Industrial Estate, Road No. 16-Z, Thane (W): 400604.  
Phone : 022-25805346

No.THN/Jt.CIT/R-4/RTI/2012-13/ 450

Date :- 26<sup>th</sup> Dec, 2012.

To,

**Shri Anil Bairwal**  
Association for Democratic Reforms,  
Table No. 4, B-1/6, Hauz Khas  
New Delhi-110016.

Sir,

**Sub:** RTI application .-reg

**Ref:-** Your letter No. ADR04/Appeal/BVA/18/12/2012

Kindly refer to the above.

2. In connection to the above, you are hereby granted an opportunity to furnish your say on or before 11/01/2012 personally or through your authorized representative before the undersigned.
3. It is further intimated that, failure on your part to furnish your say on or before the stipulated date, will be presumed that you have nothing to say in this matter and appeal will be decided on merits of the case.



Yours faithfully,

*[Handwritten Signature]*

[ Smt Anuradha V. Ravi ]  
Jt. Commissioner of Income-tax, Range-4,  
THANE.