

Designated Appellate Authority : First Appellate Authority

Postal Address : Chief of Income Tax (Appeal), Jammu
Aayakar Bhawan, Rail Head complex
Panama Chowk, Jammu – 180 001

Date : 01-11-2012

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

Name and address of the CPIO : **The Income Tax Officer cum CPIO,**
Ward 3(1), Srinagar
Srinagar – 190 001

Date of submission of RTI request : 03/08/2012

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

Brief facts of the case: The applicant had sought information on the following points:

Income Tax Returns of Jammu and Kashmir National Conference (J&K NC) (FOR Assessment Years 2002-03, 2003-04, 2004-05, 2005-06, 2006-07 and 2011-2012)

1. **Whether the political party Jammu and Kashmir National Conference has filed their complete Income Tax Returns?**
2. **Whether their Annual Income Tax Returns contains the following documents-**
 - **Income and Expenditure Account**
 - **Balance Sheet**
 - **Auditors Report**
 - **Schedules**
 - **Contribution Reports**
 - **Copy of the Assessment Order**
3. **If yes, kindly provide the full Income Tax Returns including all the mentioned documents for the above mentioned assessment years.**
4. **If no, whether any notice has been sent or any action taken against party Jammu and Kashmir National Conference for filing of incomplete Income Tax Returns (i.e. without the Balance Sheet and Income and Expenditure account) for any assessment year, if any?**

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 Litigations (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 it 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:

1. As there was no reply from the Office of the Income Tax Officer cum CPIO, Ward 3(1), Srinagar for the RTI letter dated 03/08/2012 within 30 days of the RTI being transferred, an appeal should be preferred against the concerned Public Information Officer under the section 19(1) of the *Right to Information Act, 2005*. (**Annexures 1,2**)

Section 139 (4B) of the IT Act stipulates provision for filing of Income Tax returns by Political parties as quoted below

The chief executive officer (whether such chief executive officer is known as Secretary or by any other designation) of every political party shall, if the total income in respect of which the political party is assessable (the total income for this purpose being computed under this Act without giving effect to the provisions of section 13A) exceeds the maximum amount which is not chargeable to income-tax, furnish a return of such income of the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and all the provisions of this Act, shall, so far as may be, apply as if it were a return required to be furnished under sub-section (1).

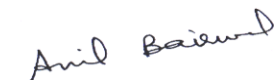
2. Also, in April 2008, CIC, on ADR's second appeal, passed the judgement, with order number ***CIC/AT/A/2007/01029 & 1263-1270; Date of Decision: 29.04.2008***, stating that the **tax returns of political parties were to be made public and also directed the authorities to furnish copies of the IT returns of the parties to the public.**

Hence it proves that the RTI and this First Appeal is in the larger public interest

I appeal to you to kindly direct the 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.

Yours sincerely



Anil Bairwal
National Coordinator
Association for Democratic Reforms
Table no. 04
B-1/6, Hauz Khas
New Delhi- 110016
Phone – 011-40817601

Enclosures:

- Annexure 1:** Copy of the original RTI Application.
- Annexure 2:** Copy of the transfer letter
- Annexure 3:** Copy of the CIC Judgement