

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 : 26/11/2012

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 2(1), Jammu
Jammu – 180 012

Date of submission of RTI request : 11/10/2012

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 Panthers Party (J&KPP) (FOR 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)

1. **Whether the political party Jammu and Kashmir Panthers Party 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 Jammu and Kashmir Panthers Party 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 2(1), Jammu for the RTI letter dated 11/10/2012 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).

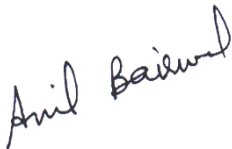
2. Also, in April 2008, CIC, on ADR's second appeal, passed the judgement, with order number *CIC/AT/A/2007/01029 & 1263-1270*; *Date of Decision: 29.04.2008*, stating that the **tax returns of political parties were to be made public and also directed the authorities to furnish copies of the IT returns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

Special Post:

GOVERNMENT OF INDIA

OFFICE OF THE INCOME TAX OFFICER, WARD-2(1)
AAYAKAR BHAWAN, RAILHEAD COMPLEX, PANAMA CHOWK, JAMMU
Phone: 0191- 2479302 Fax: 0191-2479302

No: ITO/W-2(1)/JMU/ 1096

Date: 29.10.2012

1.	Name of the Applicant	Shri Anil Bairwal Association for Democratic Reforms Table No.04 B-1/6 Hauz Khas, New Delhi- 110016
2.	Date of Receipt of the application	18.10.2012
3.	Date of Order	29.10.2012

Order u/s 7(1) of the Right to information Act, 2005:

Shri Anil Bairwal, Association for Democratic Reforms Table No.04, B-1/6 Hauz Khas, New Delhi-110016 has filed an application dated 11.10.2012 under the Right to Information Act, 2005 which has been received in this office on 18.10.2012 through the Deputy Commissioner of Income tax (HQ)-cum CPIO O/o Commissioner of Income tax, J&K, Jammu vide his letter F.No. CIT/HQ-Judl/Jmu/RTI-3B/2012-13/4607 dated 17.10.2012. The information has been sought through this application on the following points:-

a.	Particulars of information required	Whether the political party, Jammu & Kashmir Panthers Party registered at 30-B, Govt. Flat Gandhi Nagar, Jammu (Tawi), J&K has filed their complete income tax returns for the above mentioned assessment years? i.e, 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. Whether their Annual income tax returns contains the following documents- <ul style="list-style-type: none">- Income & expenditure Account- Balance sheet- Auditors report- Schedules- Contribution reports- Copy of assessment order
b.	Details of information required	If yes, To provide the full income tax returns including all the mentioned documents for the above mentioned assessment years, If no, whether any notice has been sent or any

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		action taken against Jammu & Kashmir Panthers party for filing of incomplete income tax returns (i.e. without the Balance sheet and income & expenditure account) for any assessment year, if any?
c.	Period for which information asked for	For the Last ten years i.e, 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.
d.	Other details	The applicant has also filed a copy of the CIC order dated 29.04.2008

2. After the careful consideration, the requisite information is provided as under:-

i. **The information sought relates to personal information, the disclosures of which has no relationship to any public activity or interest, it would cause unwarranted invasion of the privacy of individual hence denied as per the RTI provision under section 8(1)(j) of the Act.**

ii. Further, the information cannot be made available to the applicant in view of section 8(1)(d) and 8(1)(j) of the R.T. I. Act, 2005 which reads as under:-

“8(1)(d) Information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information...”

8(1)(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...”

2.2. These exemption clauses are invoked as no larger public interest will be served by the disclosure of the above information u/s 8(1)(d). Further, the information sought is a third party information, the disclosure of which can cause unwarranted invasion of the privacy of the individuals u/s 8(1)(j) of the Right to Information Act, 2005. The applicant has not indicated how public interest is served by such disclosure.

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2.3. The case of CIC dated 29.04.2008 as per copy annexed with the petition is irrelevant keeping in view the fact that similar issue came up before the Full Bench of the Commission in Appeal No.CIC/AT/A/2008/000628 (Milap Choraria v Central Board of Direct Taxes) and the Commission vide its decision dated 15.06.2009 held that;

“the Income tax return have been rightly held to be personal information exempted from disclosure under clause (j) of Section 8(1) of the R.T.I. Act by the CPIO and the Appellate Authority, and the appellant herein has not been able to establish that a larger public interest would be served by disclosure of this information.”

2.4. The matter came up before the Hon'ble Supreme Court of India in Special Leave Petition (Civil) No.27734 of 2012 and the Hon'ble Supreme Court in its judgment dated 3rd October, 2012 at Para No.14 of its order has held:-

“The details disclosed by a person in his income tax returns are “personal information” which stand exempted from disclosure under clause (j) of section 8(1) of the RTI Act, unless involves a larger public interest and the Central Public Information Officer or the State Public Information Officer or the Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information”.

3.1. Taking into consideration all the above facts, the petitioner in the instant case has not succeeded in establishing that the information sought for is for the larger public interest and keeping in view the judgment of the Hon'ble Supreme Court as referred to above, the details disclosed by a person in his income tax returns are “personal information” which stands exempted from disclosure under clause (j) of Section 8(1) of the R.T.I. Act, hence denied.

3.2. In case the applicant is not satisfied with the information provided to him and desires to appeal against this order, he may do so within 30 days of the receipt of this order to the Joint Commissioner of Income tax, Range-2, Jammu who is the designated appellate authority.



(B. K. Raina)

Income tax Officer, Ward 2(1),
Jammu

Copy to:-

1. The Commissioner of Income tax, J&K, Jammu (Attention DCIT HQ-cum CPIO, Jammu for information;
2. The Joint Commissioner of Income tax, Range-2, Jammu for information.

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(B. K. Raina)

Income tax Officer, Ward - 2(1)
Jammu

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