



Communist Party of India (Marxist) Central Committee

General Secretary : Prakash Karat

September 25, 2014

Dr. M. K. Sharma
Registrar
Central Information Commission
New Delhi

868 - 2/29/14
26/9/14

Sub: Reply to notice issued by the Central Information Commission
(Reference No. F. No. CIC/SM/C/2011/001386 dated September 10, 2014)

26.9.14
Dear Sir,

The order of the Central Information Commission dated June 3, 2013 is wrong before law and facts. It was based on a wrong interpretation of the term "substantially financed" used in 2(h) of the Right to Information Act. The order of the Central Information Commission stated as follows:

"The gravamen of the above judgements is that for a private entity to qualify to be a public authority, substantial financing does not mean majority financing. What is important is that the funding by the appropriate Government is achieving a "felt need of a section of the public or to secure larger societal goals". The ratio of the above judgements, particularly of Delhi High Court, applies to the present case. Large tracts of land in prime areas of Delhi have been placed at the disposal of the Political Parties in question at exceptionally low rates. Besides, huge Government accommodations have been placed at the disposal of Political Parties at hugely cheap rates thereby bestowing financial benefits on them. The Income Tax exemptions granted and the free air time at AIR and Doordarshan at the time of elections also has substantially contributed to the financing of the Political Parties by the Central Government. We have, therefore, no hesitation in concluding that INC/AICC, BJP, CPI(M), CPI, NCP and BSP have been substantially financed by the Central Government and, therefore, they are held to be public authorities under section 2(h) of the RTI Act."

The Supreme Court decision in Thalappalam Service Cooperative Bank Ltd and Others vs. State of Kerala and Others 2013 STPL (Web) 818 SC discussed the meaning of "substantially financed" and stated as follows:

"36. The words "substantially financed" have been used in Sections 2(h)(d)(i) & (ii), while defining the expression public authority as well as in Section 2(a) of the Act, while defining the expression "appropriate Government". A body can be



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substantially directly or indirectly by funds provided by the appropriate Government. The expression "substantially financed", as such, has not been defined under the Act. "Substantial" means "in a substantial manner so as to be substantial". In Palser v. Grimling (1948) 1 All ER 1, 11 (HL), while interpreting the provisions of Section 10(1) of the Rent and Mortgage Interest Restrictions Act, 1923, the House of Lords held that "substantial" is not the same as "not unsubstantial" i.e. just enough to avoid the de minimis principle. The word "substantial" literally means solid, massive etc. Legislature has used the expression "substantially financed" in Sections 2(h)(d)(i) and (ii) indicating that the degree of financing must be actual, existing, positive and real to a substantial extent, not moderate, ordinary, tolerable etc.

37. We often use the expressions "questions of law" and "substantial questions of law" and explain that any question of law affecting the right of parties would not by itself be a substantial question of law. In Black's Law Dictionary (6th Edn.), the word 'substantial' is defined as 'of real worth and importance; of considerable value; valuable. Belonging to substance; actually existing; real: not seeming or imaginary; 2013 STPL(Web) 818 SC 11 Thalappalam Ser. Coop. Bank Ltd. and Others Vs. State of Kerala and Others Supreme Court Judgements @ www.stpl-india.in not illusive; solid; true; veritable. Something worthwhile as distinguished from something without value or merely nominal. Synonymous with material.' The word 'substantially' has been defined to mean 'essentially; without material qualification; in the main; in substance; materially.' In the Shorter Oxford English Dictionary (5th Edn.), the word 'substantial' means 'of ample or considerable amount of size; sizeable, fairly large; having solid worth or value, of real significance; solid; weighty; important, worthwhile; of an act, measure etc. having force or effect, effective, thorough.' The word 'substantially' has been defined to mean 'in substance; as a substantial thing or being; essentially, intrinsically.' Therefore the word 'substantial' is not synonymous with 'dominant' or 'majority'. It is closer to 'material' or 'important' or 'of considerable value.' 'Substantially' is closer to 'essentially'. Both words can signify varying degrees depending on the context.

38. Merely providing subsidiaries, grants, exemptions, privileges etc., as such, cannot be said to be providing funding to a substantial extent, unless the record shows that the funding was so substantial to the body which practically runs by such funding and but for such funding, it would struggle to exist. The State may also float many schemes generally for the betterment and welfare of the cooperative sector like deposit guarantee scheme, scheme of assistance from NABARD etc., but those facilities or assistance cannot be termed as "substantially



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financed" by the State Government to bring the body within the fold of "public authority" under Section 2(h)(d)(i) of the Act. But, there are instances, where private educational institutions getting ninety five per cent grant-in-aid from the appropriate government, may answer the definition of public authority under Section 2(h)(d)(i). NON-GOVERNMENT ORGANISATIONS: "

The judgement of the Supreme Court makes it clear that political parties cannot be considered as an organisation "substantially financed" by the government. Hence a political party cannot be treated as a public authority as defined under Section 2(h) of the Right to Information Act 2005. As the order of the Central Information Commission was based on a wrong interpretation of the term "substantially financed" we request that the order of the Central Information Commission dated June 3, 2013 has to be re-opened and revised.

A Bill (Bill No. 112 of 2013), the Right to Information (Amendment) Bill 2013, was introduced in the Parliament to amend the Right to Information Act to keep political parties out of the purview of the RTI Act with a view to remove the adverse effects of the decision of the Central Information Commission on June 3, 2013. The Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice considered the Bill and submitted its report to the Parliament. The Parliament is yet to take a final decision on the matter.

The Central Information Commission has no right to proceed against the Communist Party of India (Marxist) as it is not a public authority as defined by 2(h) of the Right to Information Act.

Hence it is requested that the matter may be closed.

Yours sincerely

(Prakash Karat)



23792375
Phone : 23017137
23019080
Ext. 432

Website : www.aicc.org.in

ALL INDIA CONGRESS COMMITTEE

MOTILAL VORA, MP
TREASURER

24, Akbar Road
New Delhi-110011

October 8, 2014

To,

Dr. M. K. Sharma,
Registrar,
Central Information Commission
2nd Floor,, August Kranti Bhavan,
Bhikaji Cama Place,
New Delhi - 110066

898-2/Rg/14
9/8/14

Subject : Reply to your Show Cause Notice dated 10th September 2014, regarding alleged
"Non-compliance of Commission's order dt. 3-6-2014 regarding declaring
Political Parties as "Public Authority"

Sir,

With reference to you aforesaid letter, kindly note as under:

We had been unable to respond to your earlier notice dated 7th February, 2014 and take appropriate measures to challenge the order of the Commission dated 3.6.2013 on account of the preparations for the general elections that were then in progress.

We do not accept the findings of the Commission recorded in its order dated 3.6.2013 that we are a 'public authority' within the meaning of Section 2(h) of the Right to Information Act, 2005. We therefore believe that the directions contained in the said order to designate a Central Public Information Officer and an Appellate Authority and to give effect to the provisions of Section 4(1)(b) of the Right to Information Act by way of making voluntary disclosures on the subjects mentioned therein are ill founded and contrary to law.

We believe that the order of the Commission bringing political parties under the ambit of the Right to Information Act and clothing itself with jurisdiction is contrary to the letter and spirit of that Act. Such a dramatic alteration of the law can and should be made only by the legislature by way of amendment to the Right to Information Act, 2005 and not by way of a strained and ill-founded reading of the Act by a quasi-judicial authority given contrary to the statute and its legislative intent.

Any inquiry of action contemplated in your letter dated 10th September, 2014 or otherwise may therefore kindly be put on hold in light of what is stated above.

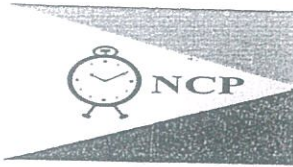
Thank you,

Yours sincerely,

Motilal Vora
(Motilal Vora)

NCP/ISRA/3772/2014

(122)



Nationalist Congress Party

10, Dr. Bishambhar Das Marg, New Delhi - 110 001 Tel. : 23314414, 23359218, 23752938 Fax : 23318075
E-mail : srkohli@hotmail.com Website : www.ncp.org.in

S. R. Kohli

Hony. Permanent Secretary &
Member Working Committee

BY SPEED POST
New Delhi, 8th October 2014

To
Dr. M. K. Sharma, Registrar
Office of the Central Information Commission
2nd Floor, August Kranti Bhawan
Bhikaji Cama Place
New Delhi-110066.

Sir,

Please refer your Show Cause Notice dated 10th September 2014, asking all National Political Parties including ours to show cause as to why an inquiry should not be initiated in the matter of non-compliance of CIC's order dated 3rd June 2013.

In this regard, we would like to submit that because of the forthcoming assembly elections in Maharashtra and Haryana, all our leaders are busy and are out of station.

Hence, in view of the above, we request you to please give us a month's time to respond for which we shall be highly obliged.

Yours sincerely,

(S. R. Kohli)
Hony. Permanent Secretary

H. No. 427, (1st Floor) Sector-15A, Noida Tel.: 0120-4231662

COMMUNIST PARTY OF INDIA

CENTRAL OFFICE

Ajoy Bhavan, 15 Com. Inderjit Gupta Marg, New Delhi - 1100 02

E-mail : cpiofindia@gmail.com, nationalcouncil@communistparty.in Web : www.comunistparty.in

Tele. : 2323280

2323554

2323505

2323509

Fax : 2323554

S. Sudhakar Reddy

General Secretary

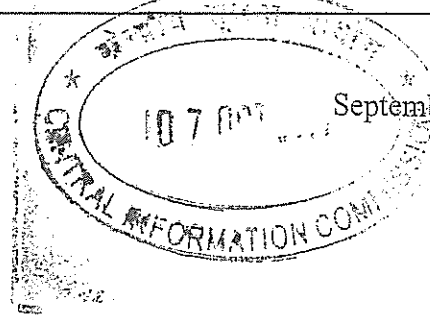
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for your info.
10/10

Registrar

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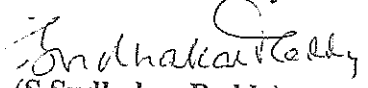
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Yours sincerely


(S.Sudhakar Reddy)
General Secretary