

1. i. Name and Address if the Appellant: **Anil Bairwal,**  
National Coordinator,  
Association for Democratic Reforms  
“Kiwanis Centre”, 4<sup>th</sup> Floor,  
B-35, Qutub Institutional Area,  
New Delhi-110016  
ii. Contact no. with mobile no.: 09999310100
2. Name/ designation and address of the Central Public Information Officer to whom the application was addressed **Shri A.K.Behera**  
: Income Tax Officer,  
Ward-1(2), Room No 404, Aayakar Bhawan,  
Rajaswa Vihar, Bhubaneswar – 751 007
3. Name/ Designation and address of the Central Information Officer who gave reply to the application **Shri A.K.Behera**  
: Income Tax Officer,  
Ward-1(2), Room No 404, Aayakar Bhawan,  
Rajaswa Vihar, Bhubaneswar – 751 007
4. Name and address of the First Appellate Authority who decided the First Appeal **Shri Suresh Sivanandan**  
:Joint Commissioner of Income Tax  
Range – 1, Bhubaneswar &  
Appellate Authority
5. Particulats of the application:
  - i. Date of the RTI application: **31-08-2012**
  - ii. Date of the CPIO Reply: **12-09-2012**
  - iii. Date of the First Appeal: **25-09-2012**
  - iv. Date of FAA Reply: **12-10-2012**
6. Particulars of the order(s) including number If any against which the appeal is preferred **FAA Appeal No. JCIT/R-1/RTI/2012-13/01**  
Date of Order: 12-10-2012

**7. Brief facts leading to the appeal:**

This is with reference to my RTI application No: ADR04/RTI/ACIT-BJD/04 dated 31-08-2012 asking for copies of all pages of the IT returns filed by Biju Janata Dal for the Assessment years 2002-03, 2003-04, 2004-05, 2005-06, 2006-07, 2007-08, 2008-09, 2009-10, 2010-11 and 2011-12. A copy of the above mentioned RTI application filed on 31/08/2012 is attached herewith. (Annexure-1)

As per the reply from the ITO in letter No: ITO/W-1(2)/BBSR/RTI/2012-13/9497 dated 12/09/2012, I was informed that the said information could not be provided as the information sought by the appellant pertains to third party and the third party has raised objection in providing the necessary information quoting that the party does not receive any grant directly or indirectly from the Government u/s 2(h) of the RTI Act (Annexure – 2).

An appeal was hence filed on 25/09/2012 to the CCIT, Orissa (Appeal no ADR04/Appeal/BJD/25/09/2012) stating the grounds for our appeal being larger public interest as was evident from the earlier judgement by the CIC vide its order number **CIC/AT/A/2007/01029 & 1263-1270; Date of decision: 29/04/2008** directing the public authorities (Income Tax Departments) holding Income Tax returns of the political parties to make them available to the appellant (ADR) (Annexure – 3)

The first appellate authority has rejected the appeal based on the following: (Annexure – 4)

- In the Hon'ble Supreme Court order dated 03-10-2012, it held that the Income Tax returns of a person was personal information unless it involves larger public interest;
- That the information requested was covered by Section 8(1)(j) of the RTI Act and pertains to third party;
- That it was not proved by the appellant that the disclosure of the information would serve any larger public interest.

**8. Prayer or relief sought:**

**Income Tax Returns of Biju Janat Dal (FOR Assessment Years 2002-03, 2003-04, 2004-05, 2005-06, 2006-07, 2007-08, 2008-09, 2009-10, 2010-11 and 2011-12)**

1. Whether the political party **Biju Janata Dal (BJD)**, has filed their complete Income Tax Returns for the above mentioned assessment years?
2. Whether their Annual Income Tax Returns contains the following documents-
  - Income and Expenditure Account
  - Balance Sheet
  - Auditors Report
  - Schedules
  - Contribution Reports
  - Copy of 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 **Biju Janata Dal** for filing of incomplete Income Tax Returns (i.e. without the Balance Sheet and Income and Expenditure account) for any assessment year, if any?

**9. Ground for the prayer or relief:**

Quoting the order of the Hon'ble Supreme Court dated 03-10-2012 in the case of Girish Ramachandra Despande vs CIC & Ors in SLP (Civil) No. 27734 of 2012 which held that *"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 larger public interest and the CPIO or the SPIO or the Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information"*.

It should be taken into account that the order considered by the appellate authority also mentioned the fact that *"the petitioner in the instant case has not made a bona fide public interest in seeking information"*, whereas the details of the CIC judgement with order no **CIC/AT/A/2007/01029 & 1263-1270; Date of decision: 29/04/2008** directing the public authorities (Income Tax Departments) holding Income Tax returns of the political parties to make them available to the appellant, was made available to the appellate authority.

The appellate authority noted that the CIC judgement dated 29/04/2008 relied upon by the appellant precedes the order of the Hon'ble Apex Court, the ratio laid down is final and binding on all public authorities.

It should be noted here that the CIC judgement also included the CCIT, Bhubaneswar in its judgement directing the authority to provide the income tax returns and the assessment orders of the Political parties

under its jurisdiction and hence irrespective of the date of the order passed, it had been proved by the appellant that the information requested for was in larger public interest.

The Commission in its order said that

*“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.”*

That the appellant *“could not satisfy that the disclosure of information is going to serve any larger public interest”*

Since political parties are working in public domain and using public funds, it is obvious that disclosure of financial information about political parties will be in the larger public interest.

**10. Any other information relevant to the appeal: None**

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.**

Anil Bairwal  
National Coordinator

Association for Democratic Reforms  
Table No 4, “Kiwaniis Centre”, 4<sup>th</sup> Floor,  
B-35, Qutub Institutional Area, New Delhi-110016  
Phone – 011-40817601

## **Index**

**Annexure 1:** Copy of the original RTI Application.

**Annexure 2:** Copy of the reply from the concerned CPIO

**Annexure 3:** Copy of the appeal

**Annexure 4:** Copy for the reply from the appellate authority

**Annexure 5:** Copy of the CIC Judgement: *CIC/AT/A/2007/01029 & 1263-1270*

**Annexure 6:** Copy of the CIC Judgement: *CIC/DS/A/2011/000666*