

**Central Information Commission
August Kranti Bhawan
Bhikaji Cama Place, New Delhi-110066**

F.No.CIC/SM/C/2011/001386 and 000838

Present:

- Complainant : 1. Shri Subhash Chandra Agrawal
: 2. Shri Anil Verma, Prof. Jagdeep Chhokar and Ms Shivani Kapoor, Authorized representatives of Shri Anil Bairwal
- Intervener : Shri R.K. Jain
- Respondents : 1. Indian National Congress/
All India Congress Committee (AICC);
2. Bhartiya Janata Party (BJP);
3. Communist Party of India (Marxist) (CPM);
4. Communist Party of India (CPI);
5. Nationalist Congress Party (NCP);
6. Bahujan Samaj Party (BSP)
- (respondents were absent)
- Date of Hearing : 21st November, 2014
- Date of Decision : 28th November, 2014

Interim Order

1. The case was heard on 21.11.2014.
2. A notice dated 03.11.2014 was issued to the respondents (six national political parties) to appear before this Commission on 21.11.2014 and produce all relevant documents/records relating to the action taken in pursuance of the directions contained in this Commission's order dated 03.06.2013. The respondents have not responded to the notice of 03.11.2014 and have not appeared before this Commission on 21.11.2014.

3. This Commission's order of 03.06.2013 had held that INC/AICC, BJP, CPI(M), CPI, NCP and BSP are public authorities under section 2(h) of the RTI Act. The order directed the Presidents and General Secretaries of these political parties to designate Central Public Information Officers (CPIOs) and Appellate Authorities at their headquarters in six weeks. It was directed that the CPIOs will respond to the RTI applications, as extracted in the order of 03.06.2013, in four weeks time. The Presidents and General Secretaries of these political parties were also directed to comply with the provisions of section 4 (1) (b) of the RTI Act.

4. Shri S.C. Agrawal has submitted representations dated 27.08.2013, 10.12.2013 and 23.12.2013, informing that none of the political parties have complied with this Commission's directions contained in order dated 03.06.2013. This Commission accordingly sent a notice, dated 07.02.2014, to the concerned political parties seeking their comments.

5. In response to the notice dated 07.02.2014, comments were received from three political parties. Another opportunity through notice dated 25.03.2014 was given to the three parties that had not responded. A response was received; however, there was no response from the other two parties.

6. As the responses received were not satisfactory, a show cause notice was issued on 10.09.2014 under section 18 of the RTI Act to all the six political parties to explain why an inquiry should not be initiated for non-compliance of this Commission's order dated 03.06.2013. Responses were received from four parties. But, there was no response from two parties.

7. The responses that were received from the political parties, in summary, said that this Commission's order of 03.06.2013 was wrong. At one point, it was also indicated that a bill to amend the RTI Act to keep political parties out of the purview of the RTI Act was pending in the Parliament. One of the political parties responded that they needed time to respond.

8. It was apparent from the responses that the six political parties had not implemented or taken steps to implement this Commission's order of 03.06.2013. This Commission was satisfied that there were reasonable grounds to inquire into the matter under sub-section (2) of section 18 of the RTI Act. Accordingly, a notice dated 03.11.2014 was issued fixing 21.11.2014 as the date for hearing. The six national political parties, through this notice, were directed to produce all relevant documents/ records relating to the action taken in pursuance of the directions of this Commission contained in its order of 03.06.2013.

Hearing on 21.11.2014

9. The six political parties were not present or represented during the hearing.

10. At the outset of the hearing, Shri R.K. Jain sought an opportunity for intervention, in which regard, he cited his application dated 31.10.2014. He also referred to the tagging, with this case, of his complaint, no. CIC/SS/C/2014/000116, filed in connection with a political party. Shri Jain submitted that by order dated 22.08.2014 in W.P.(C) 1972/2014 filed by him, the High Court of Delhi has directed this Commission to address his complaint expeditiously, but the case had not, as yet, been taken up for hearing.

11. At this stage, this Commission observed that the context of the present hearing is specific, the parameters already having been set by the notice of 03.11.2014. Considering that the reference point of the hearing pertains to non-compliance of this Commission's order of 03.06.2013, it was observed that Shri Jain's case need not be tagged with the present matter. However, considering Shri Jain's argument that the basic issue was on similar lines, Shri Jain was allowed to intervene.

12. The complainant, Shri S.C. Agrawal, submitted that the then Attorney General of India has opined that a legislation to amend the RTI Act to keep the political parties out of its purview would be unlawful.

13. Shri S. C. Agrawal further submitted that penalty be imposed on the defaulting political parties and that exemplary compensation be awarded under the RTI Act. He further submitted that this Commission should make suitable recommendations to the Election Commission of India, the Ministry of Urban Development, Prasar Bharti, the Central Board of Direct Taxes and such other institutions relevant to the termination of state-funded privileges and concessions, such as subsidized land and government accommodation, free voter-lists, free media-time on Doordarshan/ AIR, income tax exemptions, etc. In this connection, Shri Agrawal filed a letter dated 21.11.2014 containing his written submissions, which is taken on record.

14. Shri R. K. Jain submitted, in his intervention, that the order dated 03.06.2013 has not been questioned by the political parties before any court, therefore, the directions contained in the said order are final and binding on the political parties.

15. Shri Jain further said that the political parties have not implemented this Commission's directions of 03.06.2013, nor have they presented themselves during the hearing. Shri Jain further submitted that this Commission has power to get its order enforced, and that penalty be imposed on the political parties along with the award of compensation to the complainants.

16. Shri Jain also said that all citizens are affected by the non-compliance of this Commission's order. He further submitted that another opportunity of hearing should be granted to the political parties so that any order passed by this Commission is not challenged on grounds of violation of the rules of natural justice. Shri Jain submitted that he be granted some more time to make

submissions about the legal provisions and options available for getting this Commission's order of 03.06.2013 implemented.

17. Prof. Jagdeep Chhokar submitted that the order dated 03.06.2013 has not been questioned in any appropriate forum or court and is, therefore, valid and binding.

18. Prof. Chhokar said that the parties have deliberately not complied with the order for the last 17 months and have also not cared to attend the hearing. Shri Chhokar said that the deliberate absence of the political parties is ridiculous and has put this Commission in an awkward situation. He further submitted that no useful purpose would be served by giving the political parties another opportunity to be heard, and that this Commission should take a decision based on the material on record. Shri Chhokar further submitted that the maximum penalty be imposed on the political parties and that exemplary compensation equal to five percent of the average of the annual income as declared by the six political parties in their income tax returns be granted to the complainants.

Conclusions from the hearing

19. We have taken into account the submissions made by the parties during the hearing and gone through the material on record. The hearing, in context of the notice of 03.11.2014, has thrown up some questions, which need reflection and due consideration before any final orders are passed. The following questions are on the canvas:

firstly, the nature and scope of this Commission's functioning as envisaged in the RTI Act to follow up on the compliance of its orders and directions;

secondly, how to address a situation where the respondents do not engage in the process, such as the present instance where the political parties have not appeared in the hearing on 21.11.2014; and

thirdly, the need to identify the steps requisite for ensuring implementation of this Commission's order of 03.06.2013.

20. In view of the above, it will be appropriate to provide another opportunity to the respondents to present their case before this Commission and also to the complainants and the intervener to make any further submissions.

Order

21. This Commission directs the Presidents and/or the General Secretaries of the six political parties to appear before this Commission for a hearing on **7th January, 2015 (Wednesday) at 4:00 pm** and produce all relevant documents/ records relating to this matter. The hearing will take place in court room No.

314, Second Floor of B-Wing, August Kranti Bhawan, Bhikaji Cama Place, New Delhi-110066.

22. It is ordered that a duly authenticated copy of this order be sent to the respondents and other parties both through registered post as well as by hand.

(Mrs Manjula Prasher)
Information Commissioner

(Sharat Sabharwal)
Information Commissioner

(Vijai Sharma)
Information Commissioner

Authenticated true copy.

(Dr. M.K. Sharma)
Registrar