

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/ S 11

Date: 08.05.2013

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	15.04.2013
3.	Date of Order	08.05.2013

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 08.04.2013 under the Right to Information Act, 2005 .The information has been sought through this application on the following points:-

a.	Particulars of information required	<ol style="list-style-type: none"> 1. 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 2003-04, 2004-05, 2005-06, 2006-07, 2007-08, 2008-09, 2009-10, 2010-11, 2011-12 and 2012-13. 2. Has the party submitted its returns in the latest format prescribed by the ECI based on the ICAI recommendations? 3. What the last date for filing of income tax returns for assessment year 2012-13 for the political party? 4. If the ITRs are available for the above mentioned party, kindly provide the full income tax returns containing the following documents for the above mentioned assessment year: <ol style="list-style-type: none"> a. Income and expenditure account b. Balance sheet c. Cash flow statement
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		d. Auditors report e. Schedules f. Contribution report g. Copy of assessment order 5. If no, whether any notice has been sent or any action taken against Jammu & Kashmir National Panthers Party for not filing the income tax returns before the last date of filing? Kindly provide a copy of the same
b.	Period for which information asked for	For the Last ten years i.e, Assessment years 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 answer to query No.1 is yes;
- ii. The answer to query No.2 is that the party is required to file the return of income in the prescribed Format as provided under section 4B of section 139 of the Income tax Act, 1961 read with rule 12 of the Income tax Rules, 1962.
- iii. The last date for filing of return has been prescribed under Section 139(1) of the Income tax Act, 1961

iv. In reply to query No.4, it is submitted that the ITRs are available but 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.

v. 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.

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.



(B. K. Raina)

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