

Office of the
FIRST APPELLATE AUTHORITY
 ADDL. COMMISSIONER OF INCOME-TAX -18(2),
 1st Floor, Piramal Chambers, Parel, Mumbai – 400 012.

- 1) Name & address of the applicant : **SHRI ANIL BAIRWAL**
 National Coordinator,
 Association for Democratic Reforms
 Table No.4, "Kiswanis Centre", 4th Flr,
 B-35, Qutub Institutional Area,
 New Delhi – 110 016.
- 2) Date of filing application u/s.19(1): 03/03/2013
 of the Right to Information Act, 2005
- 3) Date of order : 02/04/2013
-

ORDER U/S. 19(1) OF THE RIGHT TO INFORMATION ACT, 2005

An application has been received from Shri Anil Bairwal, who has filed an appeal u/s. 19(1) of the Right to Information Act, 2005, through registered post against the order u/s. 7(1) of the Right to Information Act, 2005 of the CPIO – I.T.O.-18(2) (3), Mumbai. The appeal was received on 3rd March, 2013 in the Income Tax Department. In this appeal, the applicant has sought for copies of all pages of the IT returns filed by Shiv Sena for the Assessment Year 2012-13. The applicant, vide the RTI application dated 14-01-2013, has asked for the following information :

1. Whether the political **Shiv Sena (SS)** has filed its complete Income tax Returns for assessment year 2012-13 ?
2. Has the party submitted its returns in the latest format prescribed by the ECI based on the ICAI recommendations ?
3. What is 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 :
 - a. Income & Expenditure account
 - b. Balance Sheet
 - c. Cash flow Statement
 - 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 Shiv Sena (SS) for not filing the Income Tax Returns before the last date of filing ? Kindly provide a copy of the same.

2. The CPIO denied the information stating that the information sought for was exempted from disclosure under clause (j) of Section 8(1) of the Right to Information Act, 2005.

3. Aggrieved by the decision of the CPIO, the applicant is in appeal u/s. 19(1) of the RTI Act before the undersigned. The appellant was given an opportunity of personal hearing on 18-03-2013. The Authorised Representative of the appellant attended and the case was discussed with him.

4. I have considered the order of the CPIO, the Appeal Memo and the submissions made before the undersigned by the appellant.

5. The appellant, Shri Anil Bairwal, has desired information in a certain manner and does not require the CPIO to furnish the same in the manner as desired by the applicant. Reliance has been placed by the CPIO on the decision of the Hon'ble Apex Court in the case of Girish Ramchandra Deshpande Vs. CIC, SLP (Civil) No. 27734 of 2012 dated 03.10.2012, wherein the Apex Court has 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 a larger public interest.*"

6. The appellant contended that the information sought is in the larger public interest and does not warrant to invasion of the privacy of the individual. Further, the Central Information Commission vide its order No.CIC/AT/A/2007/ 01029 & 1263-1270 dated 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.

In the appeal Memo, the appellant has relied on para 38 of the decision of the Hon'ble CIC, wherein it is held that –

“ the only way a citizen can gain access to the details of funding of political parties is through their Income Tax Returns filed annually with Income Tax authorities. There is unmistakable public interest in knowing these funding details which would enable the citizen t make an informed choice about the political parties to vote for. The RTI Act emphasizes that “democracy requires an informed citizenry” and that transparency of information is vital to flawless functioning of constitutional democracy.”

7. However, perusal of the order U/s. 7(1) of the RTI Act, 2005 dated 21/02/2013, show that the CPIO, has consented to the applicant's request for disclosure of information, vide para nos. 5 and 6 of the order, which are reproduced as under :

5) An RTI Act is to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto'.

6) To summarize, the applicant's request for disclosure of information on point no. 4 is accepted to avail the copies of the information the applicant has to pay requisite fees to govt.exchequer as per RTI Act.

8. In view of the above facts and considering the order issued by the CPIO wherein the Public Information Officer has accepted to provide the copies of the information sought for, the appellant is hereby directed to approach the CPIO – Income- Tax Officer -18(2)(1), Mumbai, to avail the copies of information sought for, after payment of the requisite fees as per RTI Act.

9. Accordingly, the CPIO is directed to furnish the information sought for, to the appellant after verification.

10. In the result, the RTI appeal is hereby disposed off.

(RAJNISH DEV BURMAN)
First Appellate Authority
Addl. Commissioner of Income-tax,
Range-18(2), Mumbai.

Copy to::

- ✓i) The appellant - Shri Anil Bairwal ;
- ii) The CPIO - ITO 18(2)(1), Mumbai - for necessary action.



First Appellate Authority
Addl. Commissioner of Income-tax,
Range-18(2), Mumbai.



INCOME TAX DEPARTMENT, MUMBAI.
OFFICE OF THE

INCOME TAX OFFICER 18(2)(1) AND
CENTRAL PUBLIC INFORMATION OFFICER,

ROOM NO. 110,1st FLOOR, PIRAMAL CHAMBER, LALBAUG,PAREL, MUMBAI- 400 012.

Name and address of the applicant	Sh. Anil Bairwal Table No. 4, "Kiswanis centre", 4 th floor, B-35, Qutub Institutional Area, New Delhi-110016
Date of Application under RTI Act, 2005	05/03/2013
Date of Submission of Application	08/03/2013 by post
Date of receipt of application, on transfer, from other public authority	NA
Subject Matter	Income Tax Returns of Shivsena
Period	Assessment Years 2012-13
Date of Disposal	18/03/2013

ORDER U/S. 7(1) OF the Right to Information Act, 2005.

Sh. Anil Bairwal, hereinafter referred to as 'the applicant', has made an application under section 6(1) of the Right to Information Act, 2005, hereinafter referred to as 'the Act', requesting for disclosure of information, pertaining to the period mentioned above:

1. Whether the political Shiv Sena has filed its complete Income tax return for the above mentioned A.Y. 2012-2013.
2. Has the party submitted its returns in the latest format by the ECI based on the ICAI recommendations
3. What is the last date for filing of Income Tax Returns for the assessment year 2012-2013 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:
 - Income & Expenditure accounts
 - Balance sheet
 - Cash flow statement
 - Auditors report
 - Schedules /
 - Contribution report
 - Copy of Assessment orders
5. If no, whether any notice has been sent or any action taken against Shiv Sena for not filing Income Tax Returns before the last date of filing? Kindly provide a copy of the same.

As the appellant pay desire fees through IPO for Rs. 105/- . Hence the information forwarded to you and RTI application hereby disposed off.

7. In view of the above, the above referred application has been disposed off under section 7(1) of the RTI Act, 2005. If the applicant is aggrieved by this order, he may file an appeal u/s 19 of the Act before the Addl. Commissioner of Income Tax-Rg.18(-2), Mumbai, the first Appellate Authority, having office at 1st Floor, Piramal Chamber, Lalbaug, Parel Mumbai- 400012, within 30(Thirty) days from the date of receipt of this order.



(SALIL K AHIRE)
Income Tax Officer 18-2(1) &
Central Public Information Officer,



INCOME TAX DEPARTMENT, MUMBAI.

OFFICE OF THE

INCOME TAX OFFICER 18(2)(1) AND CENTRAL PUBLIC INFORMATION OFFICER,

ROOM NO. 110,1ST FLOOR, PIRAMAL CHAMBER, LALBAUG,PAREL, MUMBAI- 400 012.

Name and address of the applicant	Sh. Anil Bairwal Table No. 4,"Kiswanis centre",4 th floor, B-35,Qutub Institutional Area, New Delhi-110016
Date of Application under RTI Act, 2005	14/01/2013
Date of Submission of Application	24/01/2013 by post to ITO 18(1)-2
Date of receipt of application, on transfer, from other public authority	NA
Subject Matter	Income Tax Returns of Shivsena
Period	Assessment Years 2012-13
Date of Disposal	21/02/2013

ORDER U/S. 7(1) OF the Right to Information Act, 2005.

Sh.Anil Bairwal, hereinafter referred to as 'the applicant', has made an application under section 6(1) of the Right to Information Act, 2005, hereinafter referred to as 'the Act', requesting for disclosure of information, pertaining to the period mentioned above:

1. Whether the political Shiv Sena has filed its complete Income tax return for the above mentioned A.Y. 2012-2013.
2. Has the party submitted its returns in the latest format by the ECI based on the ICAI recommendations
3. What is the last date for filing of Income Tax Returns for the assessment year 2012-2013 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:

- Income & Expenditure accounts
- Balance sheet
- Cash flow statement
- Auditors report
- Schedules
- Contribution report
- Copy of Assessment orders

5. If no, whether any notice has been sent or any action taken against Shiv Sena for not filing Income Tax Returns before the last date of filing?
Kindly provide a copy of the same.

2. The information sought by the applicant is available with this office but exempted from disclosure under clause (j) of section 8(1) of the RTI Act 2005.



The information is defined as under:

“(f) “information” means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any law for the time being in force;”

3. The applicant has desired information and the Act does not require the CPIO furnish the same in the manner as desired by the applicant. Reliance in this regard is placed on the decision of the Hon'ble Apex Court in the case of Girish Ramchandra Deshpande Vs. CIC, SLP (Civil), No. 27734 of 2012 dated 03.10.2012 wherein the Apex Court held that the details disclosed by a person in his income tax returns are “personal information” which stand exempted from disclosure under clause (j) section 8(1) of the RTI Act, unless involves a larger public interest

4. In the case of Ms Anumeha, c/o Association for Democratic Reforms, B-1,6, Hauz Khas, New Delhi – 110 016 the Hon'ble CIC vide his order dated 29-04-2008 directs the public authorities to provide information to the appellant i.e. Ms anumeha.

I have gone through the decision of Hon'ble CIC where in para 38 itself reproduce the provisions of section 138, to need more clarification, again reproduced as under

Under the provisions of Section 138(2) of the Income Tax Act, the confidentiality of information provided by the assessee is to be maintained.

⁸⁶[Disclosure of information respecting assessee.

⁸⁷138. ⁸⁸[(1)(a) The Board or any other income-tax authority specified by it by a general or special order in this behalf may furnish or cause to be furnished to—

(i) any officer, authority or body performing any functions under any law relating to the imposition of any tax, duty or cess, or to dealings in ⁸⁹foreign exchange as defined in section 2(d) of the Foreign Exchange Regulation Act, 1947 (7 of 1947)⁹⁰; or

(ii) such officer, authority or body performing functions under any other law as the Central Government may, if in its opinion it is necessary so to do in the public interest, specify by notification⁹¹ in the Official Gazette in this behalf,

any such information ⁹²[received or obtained by any income-tax authority in the performance of his functions under this Act], as may, in the opinion of the Board or other income-tax authority, be necessary for the purpose of enabling the officer, authority or body to perform his or its functions under that law.

(b) Where a person makes an application to the ⁹³[Chief Commissioner or Commissioner] in the prescribed form⁹⁴ for any information relating to any assessee ⁹⁵[received or obtained by any income-tax authority in the performance of his functions under this Act], the ⁹⁶[Chief



Commissioner or Commissioner] may, if he is satisfied that it is in the public interest so to do, furnish or cause to be furnished the information asked for²⁷[***] and his decision in this behalf shall be final and shall not be called in question in any court of law.]

(2) Notwithstanding anything contained in sub-section (1) or any other law for the time being in force, the Central Government may, having regard to the practices and usages customary or any other relevant factors, by order notified²⁸ in the Official Gazette, direct that no information or document shall be furnished or produced by a public servant in respect of such matters relating to such class of assesseees or except to such authorities as may be specified in the order.]

From the above it is clearly mentioned that *no information or document shall be furnished or produced by a public servant in respect of such matters relating to such class of assesseees or except to such authorities as may be specified in the order.*

5. An RTI Act to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto'.

6. To summarize, the applicant's request for disclosure of information on point no 4 is accepted to avail the copies of the information the applicant has to pay requisite fees to govt. exchequer as per RTI Act, 16 pages x 2;

7. As far as point no 1,2 and 5, Shiv Sena has filed its complete Income tax return for the above mentioned A.Y. 2012-2013 and also filed copy to the Election Commission of India. Shivsena filed its return on income in time. In respect of point no.3 the same information is available in public domain

7. In view of the above. the above referred application has been disposed off under section 7(1) of the RTI Act, 2005. If the applicant is aggrieved by this order, he may file an appeal u/s 19 of the Act before the Addl. Commissioner of Income Tax-Rg.18(-2), Mumbai, the first Appellate Authority, having office at 1st Floor, Piramal Chamber,Lalbaug,Parel Mumbai- 400012, within 30(Thirty) days from the date of receipt of this order.



Salit

(SALIL K AHIRE)
Income Tax Officer 18-2(1) &
Central Public Information Officer,