

DECISIONS OF THE CENTRAL INFORMATION COMMISSION IN THE FIRST YEAR OF RIGHT TO INFORMATION ACT

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The Central Information Commission or CIC issued about 540 decision notices between 5 January 2006 and 27 August 2006. Everyone is concerned about the impact of these decisions. How do these decisions influence our most important right that is the Right to Information? What is the essence of these decisions? This is an attempt to present the ratio decidendi of a few important decisions given by the Central Information Commission, in a classified manner for easy understanding. This author has tried to study all the decisions given by the CIC. Few decisions from other countries have been also included for discussion in this paper.

DECISIONS AND IMPLICATIONS

1. File Notings

The Commission noted with serious concern that some public authorities were denying request for inspection of file notings and supply of copies thereof to the applicants despite the fact that the RTI Act, 2005 does not exempt file notings from disclosure. The reason they were citing for non-disclosure of file notings was that the information posted on the DoPT website www.righttoinformation.gov.in points out that information excluded file notings as per government rules. Thus the DoPT website was creating a lot of unnecessary and avoidable confusion in the minds of the public authorities.

The Commission therefore directed the Secretary, Ministry of Personnel and Public Grievances, in exercise of its powers conferred on it under section 19(8) of the Right to Information Act, 2005 to remove the instructions relating to non disclosure of file notings from the website within 5 days of the issue of this order failing which the Commission shall be constrained to proceed against the Ministry of Personnel.

CIC/OK/A/2006/00154 -13 July 2006

2. Consultation between the President and the Supreme Court

A citizen made a request for securing a copy of recommendations or consultations of any one year during the past ten years submitted to the President of India under article 124(2) of the Constitution on appointment of judges of various ranks in the Supreme Court and High Courts. The CIC concluded that the entire process of consultation between the President of India and the Supreme Court must be exempted from disclosure. Disclosure of the list of candidates prepared by the Highest Court for the purposes of consultation with the President of India attracts the exemption of section 8(1) (e) as well as the provision of section 11(1) of the RTI Act.

CIC/AT/A/2006/00113 - 10 July, 2006.

3. Videography

If an applicant wishes to make photocopies of records and samples given to him for inspection at his own expenses, it is not for the public authority to object to the form in which the copies are being made, provided it is restricted under the Act. There is no provision in the Act disallowing videography, and therefore, can not be excluded unless it violates the parameters of any information sought and agreed to be provided.

CIC/WB/A/2006/00144 -- 3 August 2006

4. Orders Appointing the Examiners

The Commission directed the PIO of the University of Delhi to provide an applicant the certified copies of the orders appointing the examiners and of the files dealing with his application for re-totalling of marks as requested by him in his application.

CIC /OK/A/2006/00051 - 4 July 2006

5. Due Diligence under Section 20 (1)

If the time limits could not be adhered to by the CPIO, then he could have taken the appellant into confidence and kept him periodically posted with the progress of the information gathering process.

CIC/AT/A/2006/00031 - 10 July 2006

6. Annual Property Returns

Information in the annual property returns shall be covered by section 8 (1) (j) and can not be routinely disclosed. It will also attract the exemption under section 8 (1) (e) and in certain cases the provisions of section 11(1), being an information entrusted to the public authority by a third person i.e. the public servant filing property returns. On the whole, property returns of the public servants, which are required to be compulsorily filed by a set date annually by all public servants with their respective public

authorities, being an information to be used exceptionally, must be held to serve no general public purpose whose disclosure the RTI Act must compel.

However, all public authorities are urged that in order to open the property returns of all public servants to public scrutiny, the public authorities may contemplate a new and open system of filing and retention of such returns. Public servants may be advised in advance that their property returns shall be open and no more confidential. The property return forms may be so designed as to give only such transactions and assets related details, which may not violate civil servants' right to privacy. These steps may bring the curtains down on the rather vexed question of how private is the information given in property returns or that it is a public information, which is not private at all.

CIC/AT/A/2006/00134- 10 July 2006

7. Reasons for Rejection of Requests

Through this order, the Commission now wants to send the message loud and clear that quoting provisions of section 8 of the RTI Act *ad libitum* to deny the information requested for, by CPIOs or appellate authorities without giving any justification or grounds as to how these provisions are applicable is simply unacceptable and clearly amounts to mala fide denial of legitimate information attracting penalties under section 20(1) of the Act.

CIC/OK/A/2006/00163 - 7 July 2006

8. Personal Discussion with the Requester

If there was general confusion regarding the kind of information that has been called for and that could have been supplied, it could have been easily resolved by a personal sitting between the appellant and the respondents.

CIC /WB/A/2006/00180 - 5 July 2006

9. Compensation to the Applicants

Misbehaviour with applicants approaching public authorities under the RTI is not acceptable and is violative of section 5 (3). In this case the PIO will invite Ms. Dasharathi to visit his office and identify members of his staff who refused to provide her the information. Under section 19 (8) (b) the public authority will pay Rs.100 as damages suffered to the applicant Ms. Dasharathi. This may be either directly or through recovery from the erring officials, as deemed appropriate by the PIO.

CIC/WB/C/2006/00145 -10 August 2006

10. Language Under Section 2 (f)

Jai Kumar Jain applied to Delhi Development Authority asking for information in Hindi as he has applied to the PIO in Hindi. The CIC directed the DDA to provide the requested information in Hindi within 25 days of the issue of its decision.

CIC/WB/A/2006/00117- 13 June 2006

11. Citizen Under Section 3

PIO can decline information under section 3, if the applicant applies as a Managing Director of a company and not a citizen of India.

CIC/OK/A/2006/00121 - 27 June 2006

12. Address of the Requester

The Commission could not agree with the PIO's contention that the information was sought on behalf of an institution. The Appellant has applied in his own name and has only given his address and that of an NGO for the purpose of correct delivery of post. Thus merely giving the address of an NGO does not imply that the institution was asking the information.

CIC/OK/A/2006/00050 - 3 July 2006

13. Form of Access Under Section 2 (f)

If the requested information is not available in electronic form as required by the requester, it does not have to be created for the appellant.

CIC/MA/A/2006/0002 - 27 June 2006

14. Form of Access Under Section 2 (f)

If the information is not available in the particular form requested, the citizen may be allowed, if he desires, to inspect the original records at the office and information specifically asked for provided in the form of printouts and photocopies of original documents and records duly certified.

10/01/2005-CIC - 25 February 2006

15. Information Held Under Section 2 (j)

In this case records of the court martial trial were destroyed after a retention period of 10 years under the Army Rule 146. Information did not exist, it was physically impossible to provide it. There is no liability under the RTIA on a public authority to supply non-existent information.

CIC/AT/A/2006/20 - 23 March 2006

16. Requester Seeking Opinions of the Authorities

The PIO is required to 'provide information' which is available in any form with her office rather than giving her personal opinions on the questions asked by the requester. CIC/MA/A/2006/00150 - 19 June 2006

17. Voluntary Disclosure Under Section 4(1) (b)

A public authority, is required to make pro-active disclosure of all the relevant information as per provisions of section 4(1)(b) unless the same is exempt under the provisions of section 8(1). In fact an information regime should be

created such that citizens would have easy access to information without making any formal request for it.

24/IC(A)/2006 - 16 April 2006

18. Record Management Under Section 4 (1) (a)

Record management system ought to be improved such that information which are to be disclosed to public could be easily provided after delineating the information that is exempted under the Act.

CIC/OK/A/2006/00016 - 15 June 2006

19. PIO and Multiple PIOs

If multiple number of PIOs are appointed in the same public authority, there is no scope to either ask the citizen to approach another PIO within the same public authority or send the request to another PIO within the same public authority. Only in a case where the information sought is held by another public authority other than the one which has designated her as PIO, she can transfer the request to that public authority for furnishing information to the applicant directly.

ICPB/CI/CIC/2006 - 6 March 2006

20. Life and Liberty under section 7 (1)

On the question of life and liberty, the Commission has ruled as follows in appeal number CIC/WB/C/2006/00066 of 19 April 2006 in Shekhar Singh, Aruna Roy and Others versus Prime Ministers Office:

Matter to be treated as one of life and liberty would require the following :

- * The application be accompanied with substantive evidence that a threat to life and liberty exists, for example, medical report.
- * Agitation with the use of Ahimsa must be recognized as a bonafide form of protest,

and therefore even if the claim of concern for life and liberty is not accepted, in a particular case by the public authority, the reasons for not doing so must be given in writing in disposing of the application'.

21. Review of a Decision

A review is permissible only if

- * there is a technical error in the decision
- * there was an omission to consider certain material facts relevant for the decision
- * appellant was not given opportunity of being heard
- * PIO has not enclosed relevant supporting documents in his comments furnished to CIC.

Review Application No. 1/2006 - 16 May 2006

22. Drafting an Appeal

Appeal should be drafted in a simple and direct manner and must be brief. It should not be unnecessarily long, too detailed and couched in legalese with several repetitions.

CIC/OK/A/2006/00069 - 18 May 2006

23. Drafting an Appeal

No fresh grounds for information can be allowed to be urged at appellate levels, unless found to be of a nature that would warrant their admittance, if the same has not been brought up at the primary level i.e. the PIO level.

CIC/AT/A/2006/00128 - 13 July 2006

24. Compensation Under Section 19 (8) (b)

For the first time, the CIC in its decision directed the Central Government Health Scheme, Pune to pay a sum of Rs.5,000 to the appellant Ms. M.N.Trival as compensation and refund her the sum of Rs.60 paid by her as fee for non-application of mind by both the PIO and AO

resulted in the appellant having to interact with PIO and CIC repeatedly causing mental harassment to her.

Decision number 30/ICPB/2006, 13 June 2006

25. Penalty Under Section 20 (1)

For the first time, Shri Wajahat Habibullah, Chief Information Commissioner imposed a penalty of Rs.25,000 on a PIO for a complaint number CIC/WB/C/2006/00040, 5 June, 2006. PIO has failed to appear before the Commission on due date and time despite a telephone reminder. Because the burden of proving that he acted reasonably and diligently is on the PIO under Provision 11 to Sec 20(1), it is assumed that he has no reasonable cause to show why penalty should not be imposed. Under the aforementioned section of the Act, penalty shall be imposed on any of the following grounds, if the PIO has

- (a) refused to receive an application
- (b) not furnished the information within the time frame specified in section 7(1)
- (c) malafidely denied the request for information or knowingly given incorrect information
- (d) obstructed in any manner in furnishing the information

By not supplying some of the information sought by the applicant as found in the Decision Notice of 23 May 2006, the PIO is in violation of (b) above, and by evading his responsibility to provide the information sought also obstructed the complainant's. He will therefore pay a penalty of Rs.250 for every day subject to a maximum of Rs.25,000.

CIC/WB/C/2006/00040, 5 June 2006

26. HOD's Failure to Assist the Commission

The Commissioner of Municipal Corporation, Delhi has failed to assist (the

Commission, which he was legally bound to do, and he has also failed to explain as to why the orders of this Commission were not executed. It also appears that he has thereby caused an interruption to the proceedings. He has, therefore, committed offences punishable under sections 176, 187, 188 and 228 of the Indian Penal Code. Now therefore, it is ordered as follows:

(i) That the Commissioner, MCD shall appear in person on 18 August 2006 at 10:30AM and show cause

- (a) as to why he be not prosecuted for committing the said offences and
- (b) as to why appropriate action be not recommended against him under section 20 (2) of the Right to Information Act; and
- (c) as to why such further action or actions be not taken as this Commission may deem fit and proper.

(ii) He is further directed to furnish the names and address of the concerned CPIO (s) who were responsible for not furnishing the information to the appellant so as to enable initiation of appropriate proceedings against them.

CIC/WB/C/2006/ 00040, 9 August 2006

27. Penalty Under Section 20 (1)

Commission imposed a penalty of Rs.13,750 on Professor Akhtar Majeed, Registrar, Jamia Hamdard, New Delhi. The Commission further authorised and requested the Vice Chancellor, Jamia Hamdard, New Delhi to cause the recovery of the amount of penalty from the salary of Professor Akhtar Majeed and remit the amount by demand draft or banker's cheque drawn in favour of Pay and Accounts Officer, DP & AR, payable at New Delhi, to Shri Pankaj K.P.

Shreyaskar, Assistant Registrar, Central Information Commission, 4th Floor, Block No.IV, Old J.N.U. Campus, New Delhi - 110067, by 15 September 2006.

CIC/OK/C/2006/00042-28 July 2006

28. Disciplinary Action Under Section 20 (2)

The CIC recommended disciplinary action against an appellate authority. This appellate authority is not covered under the penal provisions of the Act. But in this case, he clearly failed to uphold the Act in the public interest. It was observed that this decision may be sent to the public authority to consider disciplinary action under their service rules.

CIC/EB/C/2006/00040 - 24 April 2006

29. Due Diligence Under Section 20 (1)

It may have been lot better if the CPIO had kept the complainant periodically informed about the stages of the processing of his case and taken him into confidence about the possibility of some delay.

CIC/AT/A/2006/00066 - 4 July 2006

EXEMPTIONS FROM DISCLOSURE OF INFORMATION

30. Commercial Secrets Protected by Law Under Section 8 (1) (d) and 11(1)

A request was received by the Chief Commissioner of Customs for names of importers and exporters in the daily list of import and export which are being published from the customs houses. But a notification No.128/2004 - Cus (NT) dated 19 November 2004 forbids the disclosure of the names requested.

The CIC held that the notification containing rules are in the nature of subordinate legislation and have the legal force of Parliament.

Hence exemption from disclosure of information is appropriate under section 8(1) (d) of the RTIA.

CIC/MA/A/2006/00012 - 10 March 2006

31. Contract Under Section 8 (1) (d)

Ramesh Chand applied to the National Institute of Science Communication and Information and sought information on terms of conditions and their implementation regarding a contract with another firm.

The CIC held that a contract with a public authority is not confidential. Offer, completion, quotations, bid, tender, prior to conclusion of a contract can be categorized as trade secret, but once concluded, the confidentiality of such transactions can not be claimed. Any public authority claims exemption must be put to strictest proof that exemption is justifiably claimed. Therefore, this public authority was directed to disclose the list of employees.

CIC/WB/C/2006/00176 - 18 April 2006

32. Agreement between the Public Authority and the Third Party

Any commercial agreement between the public authority and the third party is a public document available for access to a citizen. No party could raise objections to an agreement with a public authority for supplying a copy of the agreement, except on the grounds of commercial confidentiality and the like which is specifically exempted in section 8(1)(d).

Appeal No.77/ICPB/2006 - August 21 2006

33. Answer Sheets and Fiduciary Relationship under Section 8(1)(e)

In case of evaluated answer papers, the information available with the public authority is, in his fiduciary relationship, the disclosure of which is exempt under section 8(1)(e). In addition, when

a candidate seeks for a copy of the evaluated answer paper, either of her own or others, it is purely a personal information, the disclosure of which has no relation to any public interest or activity and this has been covered under section 8(1)(j) of the Act. The Commission, is not satisfied that the larger public interest justifies the disclosure of the information sought by the appellant. As a matter of fact the opinion is that furnishing copies of the evaluated answer papers would be against the public and supply of a copy of the evaluated answer paper would compromise the fairness and impartiality of the selection process.

ICPB/A-2/CIC/2006 - February 6, 2006

34. Cut Off Marks

The appellant desired to know the marks obtained by him in the written examination as well as interview in the Section Officer (Audit) Examination, 2005 conducted by the Staff Selection Commission. He also asked for the cut-off marks for OBC in the said examination. The CPIO declined to furnish the information sought without specifying the reasons for denial of information.

In a number of appeals and complaints received from the examinees against the CPIO of the SSC, the Commission has directed that the marks sheets should be furnished to the candidates along with cut off marks for various categories of candidates. In pursuance of those decisions, the SSC is expected to comply with the requests for mark sheets. In the instant case, the CPIO of SSC is directed to furnish the information.

180 /IC(A)/2006 - 17 August 2006

35. Marks Secured by Candidates

A Division Bench of this Commission has decided in Neeraj Kumar Singal case that conduct

of examinations are for identifying and short listing the candidates in terms of technical competence, the right attitude is highly confidential activity and therefore answer sheets should not be disclosed. But marks secured by candidates are not to be kept secret and should be furnished.

Appeal No.11/53/2006-CIC - 2 May 2006

36. Process of Investigation Under Section 8 (1)(h)

The fact that the appellant, a Member of Parliament in Rajya Sabha and a former Minister Shri Arun Jaitley, has sought access to the public records surely adds to the credence of the successful implementation of the RTI Act. In the instant case, information sought is huge and available in a large number of files, which are housed in two large rooms and kept in several cupboards under the custody of the CBI. Any attempt to compile voluminous information, so as to comply with the request of the appellant may disproportionately divert the public resources, which is not permissible under section 7(9) of the RTI Act. The CBI is conducting further investigations under section 173 (8) of the Criminal Procedure Code and therefore, the issue of freezing and de-freezing of the accounts of Shri Quattrocchi is not a closed matter, as contended by the appellant. In view of this, the exemptions claimed under section 8(1) (h) by the CBI is justified. 157/IC(A)/2006 - 1 August 2006

37. Process of Investigation Under Section 8 (1) (h)

Delhi Police received a request for results and status of a particular case. Date wise details of each and every investigational steps taken to solve this case were also sought. The CIC accepted the merit of the police authority's contention, that an open ended order by the CIC to disclose any information pertaining to details

of investigation into a crime will have serious implications for law enforcement and will have potentiality for misuse by criminal elements.

Each case will have to be examined independently on the basis of facts specific to that case. In the RTI, requests pertaining to the law enforcement authorities, it becomes necessary to strike a fine balance between the imperatives of the confidentiality of the sources of information, witness protection and so on, with the right of the citizen to get information.

CICAT/A/2006/00071 - 11 May 2006

38. Cabinet Papers Under Section 8 (1) (i)

Section 8 (1)(i) of the RTI Act is under the heading 'exemptions' and makes interesting reading. This sub-section provides for exemption to cabinet papers 'including records of deliberations of the Council of Ministers, Secretaries and other officers'. Here the term 'including' may be construed to mean that the deliberations (a) of the Council of Ministers, (b) of the Secretaries and (c) of other officers are all exempted from disclosure-requirement, independent of each other, that is to say that not only the deliberations of the Secretaries and other officers pertaining to cabinet papers, but also their deliberations unconnected with the cabinet papers are exempted. Thus this exemption extends to (i) cabinet papers (ii) deliberations of (a) Council of Ministers (b) Secretaries and (c) other officers. This would effectively mean that all decisions of the Council of Ministers and the materials related thereto shall be disclosed after the decision under the first provision of this sub-section. But the wordings of the first provision makes no such disclosure stipulation for the deliberations of the Secretaries and other officers, whether connected or unconnected with the cabinet papers, or the decisions of the Council of Ministers.

A public authority shall be arguably within its right to take a view that all deliberations of

Secretaries and other officers shall be barred from disclosure under this sub-section. The materials connected with the Council of Ministers' decisions shall be disclosed, but the deliberations of the officers, Secretaries, etc. shall not be disclosed unless they answer affirmatively to the query. Are these materials connected with a cabinet decision ?

The other interpretation is that this sub-section and the provisos deal only with the decisions of the Council of Ministers, cabinet papers and all official deliberations connected with the decisions of the Council of Ministers. Therefore, this sub-section cannot be invoked for exemption of official deliberations unconnected with cabinet papers or the decisions of the Council of Ministers.

CIC/AT/A/2006/00145-13 July, 2006.

39. Cabinet Papers Under Section 8 (1) (i)

On the question of disclosure of cabinet papers, particularly when the action has been taken and the matter is over, the contention of the CPIO and appellate authority that section 8(1)(i) of the Act is applicable as the matter is sub judice, is not tenable. The Act is clear on this issue, which states that:

The material on the basis of which the decision were taken shall be made public after the decision has been taken, and the matter is complete, or over.

In so far as action taken by the DOT, DoPT and ACC on the appointment of Shri Sinha, the matter is complete and over, the information sought may therefore be disclosed.

76/IC(A)/Z006 - 3 July 2006

40. Annual Confidential Report and Privacy Under Section 8 (1)(j)

In regard to the annual confidential report of any officer, it is the view that what is contained

therein is undoubtedly personal information about that employee. The ACRs are protected from disclosure because arguably such disclosures seriously harm interpersonal relationships in a given organization. Further, the ACR notings represent an interaction based on trust and confidence between the officers involved in initiating, reviewing or accepting the ACRs. These officers could be seriously embarrassed and even compromised if their notings are made public. There are thus reasonable grounds to protect all such information through a proper classification under the Official Secrets Act.

No public purpose is going to be served by disclosing this information. On the contrary it may lead to harming the public interest in terms of compromising objectivity of assessment, which is the core and the substance of the ACR. This may even result from the uneasiness of the reporting, reviewing and the accepting officers from the knowledge that their comments were no longer confidential. These ACR are used by the public authorities for promotions, placement and grading, etc. of the officers, which are strictly house keeping and man management functions of any organization. A certain amount of confidentiality insulates these actions from competing pressures and thereby promotes objectivity.

The view therefore is that apart from being personal information, ACRs of officers and employees need not be disclosed because they do not contribute to any public interest. It is also possible that many officers may not like their assessment by their superiors to go into the hands of all and sundry. If the reports are good, these may attract envy and if these are bad, ridicule and derision. Either way it affects the employee as well as the organization one works for. On balance, therefore, confidentiality of this information serves a larger purpose, which far outstrips the argument for its disclosure.

CIC/AT/A/2006/00069- 13 July 2006

41. Investigating Officer and Privacy

A citizen requested from the RBI certain information relating to the findings of an inspection of the Memon Cooperative Bank Limited, Mumbai, which was conducted on the basis of a complaint filed by him and a copy of the inspection report along with the name (s) of investigating officers.

The CIC directed the RBI to furnish a copy of the inspection report after due application of section 10(1) of the Act. Alternatively, the appellant should be provided a substantive response, incorporating major findings of the inspection report and indicating the action taken on the findings of the report. However, the names of the investigating officers may not be revealed as it would not serve any public interest.

177/IC(A)/2006 -17 August 2006

42. Bio Data and Medical Records Under Section 8 (1)(j)

Bhagwan Chand Saxena asked for copies of the bio data submitted by four candidates at the time of their appointment as Assistant Directors and also copies of their medical reports submitted by the medical authorities declaring these candidates as fit or unfit.

The CIC held that when a candidate submits his application for appointment to a post in a public authority, the same becomes a public document and he can not object to the disclosure on the ground of invasion of privacy and directed the PIO to provide copies of the bio data.

As far as medical reports are concerned, they are purely personal to the individuals and furnishing of the copies of medical reports would amount to invasion of privacy of the individuals and need not be furnished. However, the PIO will disclose to the requester the information whether all the four candidates had been declared medically fit or not.

ICPB/A-9/CIC/2006 - 3 April 2006

43. Travel Expenses

Travel expenses were charged to the public account. Disclosure of information can not be denied on the ground of this being personal information and not a public activity and serves no public interest, etc. Travel has been performed as a part and in discharge of official duties and the records related the same are public records and therefore, a citizen has the right to seek disclosure of the same.

63/ICPB/2006 - 4 August 2006

44. Income Tax Returns

Income Tax Returns filed by an assessee are confidential information, which include details of commercial activities and that it relates to the third person. These are submitted in fiduciary capacities. There is no public action involved in the matter. Disclosure is exempted under section. 8(1) (j).

22/IC(A)/2006 - 30 March 2006

45. Period prior to Twenty Years Under Section 8 (3)

Section 8(3) is part of section 8, which deals with exemption from disclosure of information'. Section 8 (1) specifies classes of information which are exempt from disclosure. What section 8(3) stipulates is that the exemption under section 8 (1) can not be applied if the information sought related to a period prior to 20 years except those covered in section clauses (a), (c) and (i) of sub-section 8 (1). In other words, even if the information sought is exempt in terms of other sub-section (1) of Section 8, and if the same relates to a period 20 years prior to the date of application, then the same shall be provided.

37/ICPB/2006 - 26 June 2006

46. The Third Party Information

The RTI Act does not give a third party an automatic veto on disclosure of information. The PIO and AA are required to examine the third party's case in terms of provisions of section 8(1)(j) or section 11(1) as the case may be and arrive at a finding by properly assessing the facts and circumstances of the case. A speaking order should thereafter be passed.

CIC/AT/A/2006/00014-22 May 2006

47. Public Interest and Environmental Protection

Shri Piyush Mahapatra of Gene Campaign, Sainik Farms, New Delhi made two applications on 5 December 2005 at the reception of the Ministry of Environment and Forests seeking information relating to research and testing of a number of GM Crops and studies and allergy/toxicity tests conducted on some GM crops.

The CIC held that the CPIOs of Ministry of Environment and Forests and Department of Biotechnology, both public authorities being part of the regulatory regime are directed to cooperate to supply the information sought by the applicant. Both the Ministry of environment and Forests and Department of Biotechnology have an informative website. Information on research, testing and studies being of public interest may be placed on these as available in conformity with section 4(1) to ensure ease of access.

CIC/WB/C/2006/00063 and CIC/WB/C/2006/00064 - 30 May 2006

48. Public Interest and Consumer Protection

Appellant has made the case of public interest on the grounds of adulteration in distribution of diesel and petrol. He has however not substantiated his point as to how he would prove his allegations on the basis of disclosure of income tax returns filed by the third party.

Apparently there is no direct relationship between malpractices of petrol and diesel and income tax returns, which is mainly the basis for seeking information.

37/IC(A)/2006 - 12 May 2006

49. Delhi High Court's stay on the CIC's Decision

For the first time after the enactment of the RTI Act, Delhi High Court issued a stay on a decision taken by the CIC. Delhi High Court on 22 August 2006 stayed the CIC decision directing the government to make available to it copies of the late President K.R. Narayanan's letters written to the then Prime Minister Atal Bihari Vajpayee relating to 2002 communal violence in Gujarat. Justice Anil Kumar stayed the order of 8 August 2006 till 11 January 2007 on an application moved by the Union Government saying that the letters could not be made available to the CIC as it would impinge on the national security and integrity.

CIC/MA/A/2006/00121 - 8 August 2006

SOME OTHER RELEVANT CASES

Law Enforcement Records

Records compiled for law enforcement purposes do not lose their exempt status when they are incorporated into records compiled for purposes other than law enforcement as observed in the U.S. Supreme Court in *FBI versus Abrabson*, 456 U.S. 615 (1982).

Terrorism and FOI

Since the FOIA does not have a 'terrorism' exemption per se, the government has cobbled together several different exemptions, particularly Exemption 2, which can be used to withhold information where disclosure would allow for circumvention of a law or regulation, and several subsections of Exemption 7, particularly 7(E) protecting information pertaining to investigative methods and techniques, and 7(F), which allows

an agency to withhold records where disclosure could endanger the safety of an individual. The judge in Los Angeles accepted Customs speculation upholding its claims under both 7 (E) and Exemption 2.

Living Rivers involved a request by a local environmental group for flood inundation maps for Hoover and Glen Canyon Dams showing the potential consequences if either dam failed.

The Bureau of Land Reclamation provided an affidavit from its Director of Security, Safety and Law Enforcement (a position created after 11 September 2001), in which he referred to a dam failure as a weapon of mass destruction'. The judge was sympathetic to the government's concerns, she accepted Exemption 7 (F), noting that the agency's 'statements concerning risk assessment by terrorists demonstrate that release of the maps could increase the risk of an attack on the dams'.

Living Rivers versus United States Bureau of Reclamation, 272F. supp.2d1313 (D.utah 2003).

The Public Interest

The United Kingdom Information Commissioner in Boston Borough Council reference number FS 50064581 made the following comments on public interest :

The central tenet for the public interest in disclosing information, in this case, surrounds the creation of transparency and accountability of public bodies in their decisions and actions. This includes the spending of public money and the public interest in the disclosure of information which would highlight or inform issues of public debate.

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