

Central Information Commission

**Decision No.44/IC(A)/06
F.No.CIC/MA/A/2006/00034**

Dated, the 24th May, 2006

Name of the Appellant : Sh. G.M. Chauhan, Jr. A.R., ITAT, 1st floor,
Neptune Tower, Nehru Bridge Corner, Ashram
Road, Ahmedabad

Name of the Public Authority : Office of the Chief Commissioner of Income
Tax-1, Ahmedabad.

DECISION

The appellant had asked for certain information with respect to vigilance inquiries being conducted against him since 1995. The response received from the CPIO and the appellate authority did not satisfy him. He has therefore filed his 2^d appeal against the decision of the appellate authority, which upheld the order of the CPIO. The appellant has also alleged that the CPIO and the appellate authority have given him evasive replies and have mis-interpreted the provisions of the RTI Act.

The appellant has sought the following information, from the CPIO, vide his application dated 11th November 2005:

- i) *Information regarding reasons leading to inspection of Ward(1), Palanpur by Shri R.R. Bajoria, the then CIT Gujarat-III, Ahmedabad in the company of Shri.P.C. Mody, the then DCIT Gandhinagar on 21.06.1996 and sanctity of that inspection with reference to existing instructions contained in Departmental Vigilance Manual for dealing with such complaints.*
- ii) *Information regarding specific Legal/administrative powers of CIT/DCIT to conduct such inspection, the way it was conducted.*
- iii) *Information regarding legal/administrative provision conferring power upon CIT/DCIT to take away record without passing proper receipt (14 case files and other assessment related registers were taken away without passing proper receipt) and disciplinary action in case of loss/destruction of some of the record out of such record.*
- iv) *Information regarding oral/written complaints made/filed against me in the capacity of ITO Ward (1), Palanpur during my tenure as ITO Ward-1,*

Palanpur and thereafter.(Tenure as ITO Ward-1, Palanpur from May 1995 to August 1996)

- v) *Information regarding reasons recorded by CIT, Gujarat-III, Ahmedabad for transferring me from ITO Ward-1, Palanpur to ITO (OSD), Palanpur vide his order No.HQ-III/Est-4/96-97 dated 28.08.1996 and its justification with reference to existing administrative/Vigilance instructions.*
- vi) *Information regarding reasons recorded by CCIT, Ahmedabad for ordering my premature transfer from Palanpur vide his order No.CC/Est/110-13/96-97 dated 3/9/96 and its justification with reference to administrative/Vigilance instructions.*
- vii) *Information regarding lapses noted with reference to violation of Provisions contained in income tax Act/Rules & CCS (Conduct) Rules made by me emerging from the reports made/reasons recorded by DCIT/CIT/CCIT.*
- viii) *Information regarding legal provision/administrative instruction regarding power of DCIT/CIT/CCIT to harass an officer by ordering vigilance inquiries and premature transfers in violation of instructions contained in departmental vigilance manual, instructions issued by CBDT in this regard from time to time and transfer policy ;framed by CBDT and throwing of all the instructions to the wind with the sole object to please the tax Advocates without giving concerned officer an opportunity of being heard as stipulated.*
- ix) *Name & Address of first appellate authority under the Right to Information Act 2005 No.22 of 2005.*
- x) *Copies of report made by DCIT Gandhinagar to CIT Gujarat-III, Ahmedabad on the basis of record collected from Palanpur office during their and called for thereafter.*
- xi) *Copies of written complaints made/filed against me in the capacity of ITO Ward(1), Palanpur during my tenure as ITO Ward-1, Palanpur and thereafter.(Tenure as ITO Ward-1, Palanpur from May 1995 to August 1996)*
- xii) *Copy of report made by CIT Gujarat-III, Ahmedabad on the basis of record collected from Palanpur office during his visit and called for thereafter and copy of report made on 29/08/1996.*
- xiii) *Copy of reasons recorded/ground for not transferring me from the post of ITO(DDO) O/o CIT(A) from 03/09/96 to 09/08/2001 contrary to the existing instructions of CBDT and transfer policy. (Charge was relinquished on 31st August 2001)*

- xiv) *Copy of reasons recorded for my transfer from the post of ITO(DDO)O/o CIT(A), to ITO Range-4, Ahmedabad vide order No.35 of 2001-02. F. No.CC/ABD/HQ/110-13/TR/2001-02 dated 09/08/2001.*

The CPIO has furnished a point-wise response and stated that as regards (i) & (v), the relevant documents are not available in his office. As regards (ii), (iii) and (viii), the information are available in Vigilance Manual and the Office Procedure Manual. As regards (iv), (x), (xi) and (xii), information disclosure is exempt u/s 8(1)(g) &(h). As regards (vi), it states that transfer ordered on administrative ground. As regards (vii), which pertain to lapses on various counts, as contained in the Vigilance Inspection Note, has already been furnished to him. As regards (xiii) and (xiv), it pertains to transfer and posting in 1999-2000 and there is no specific reasons recorded for transfer.

In response to his first appeal, the appellate authority has contended that (i) the appellant has sought personal opinion of the CPIO on the events that happened in the past. Since the CPIO is not required to give his personal opinion under the Act, non-furnishing of opinion does not constitute refusal of information; (ii) The appellant has expressed his views on incidents relating to his transfers, which is in the nature of grievances and (iii) the process of institution of enquiry, on the basis of show cause notice to the appellant, has been initiated, therefore, exemption from disclosure of information u/s 8(1)(g) and (h) has been claimed.

Commission's Decision:

The appellant has sought huge information, which in part relate to the opinion of CPIO, documents that are not exclusively in possession of the CPIO and the information that is exempt u/s 8(1)(g) and (h).

The appellant has contended that he has been harassed due to tardy progress in the process of prosecution initiated against him since 1995. He is naturally in need of the relevant information to effectively protect his genuine interests.

The appellant is therefore required to specifically identify the information that he needs and, in the first instance, ask for inspection of documents, which are considered by him vital to defend his case. Accordingly, he may ask for copies of the identified documents, available with the concerned CPIOs. The recorded opinions by the public servants constitute a part of the information under RTI Act. Such information should be made accessible to a requester. However, an information seeker should not seek the opinion of the CPIO through any format of questionnaire. And, non-furnishing of CPIO's opinion should not be deemed as refusal of information. The issues relating to the redressal of grievances on service matters should be taken up with the appropriate authority.

The public authority is directed to thoroughly examine the appellant's request for information, as and when received afresh and furnish it to him within the specified time limit in the Act. If it is refused, the ground for doing so, should be clearly indicated to justify the exemption from disclosure of information u/s 8(1) and 9 of the RTI Act.

The appeal is accordingly disposed of.

Sd/-
(Prof. M.M. Ansari)
Information Commissioner

Authenticated true copy :

(Munish Kumar)
Assistant Registrar

Cc:

1. Sh. G.M. Chauhan, Jr. A.R., ITAT, 1st floor, Neptune Tower, Nehru Bridge Corner, Ashram Road, Ahmedabad
2. Sh. P.K. Kashyap, Chief Commissioner of Income Tax-1, Room No.206, Aayakar Bhavan, Ashram Road, Ahmedabad – 380 009.