

How did the CIC make Decisions in its first year?

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The Central Information Commission (CIC) issued about 540 Decision Notices between 5 January,2006 and 27 August,2006.How do these Decisions influence our most important right ... Right to Information? What is the essence of these Decisions? Everyone is concerned about the impact of these Decisions. This is an attempt to present the *ratio decidendi* (central core of meaning) of a few important Decisions given by the Central Information Commission, in a classified manner, for easy understanding . I have tried to study all the Decisions given by the CIC so far. Few decisions from other Countries have been included.

File notings

The Commission noted with serious concern that some public authorities were denying request for inspection of file notings and supply 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 the information posted on the DOPT website [www.righttoinformation.gov.in] to the effect that 'information' did not include file notings. Thus the DOPT website was creating a lot of unnecessary and avoidable confusion in the minds of the public authorities.

The Commission hereby directed the Secretary, Ministry of Personnel & Public Grievances, in exercise of powers conferred on it under Section 19(8) of the Right to Information Act, 2005 to remove the instruction 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.

Consultation between the President and the Supreme Court

A citizen has made a request for some specific information viz. "Copy of Recommendation/Consultation (any one during past ten years) submitted to the President of India under Article 124(2) of the Constitution on appointment of judges of various ranks in Supreme Court and High Courts.

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 purpose 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.

Videography

If an applicant wishes to make copies of records/ 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 to the information permissible under the Act. There is no provision in the Act disallowing Videography, and therefore, cannot be excluded unless it violates the parameters of any information sought and agreed to be provided.

CIC/WB/A/2006/00144 -- 3 Aug,2006.

Orders appointing the examiners

The Commission directed the PIO,University of Delhi, to provide the Applicant the certified copies of the order appointing the examiners and of the file dealing with his application for re-totaling of the answer sheets as requested for by him in his application.

CIC /OK/A/2006/00051 – 4 July,2006.

Due diligence- s.20(1)

[If the timelimits could not be adhered to] the CPIO 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.

Annual property returns

The information in the annual property shall be covered by section 8 (1) (j) and cannot 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 return. On the whole, property returns of 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. The 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 curtain 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.

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/Appellate Authorities without giving any **justification** or grounds as to how these provisions are applicable is simply unacceptable and clearly amounts to malafide denial of legitimate information attracting penalties under section 20(1) of the Act.

CIC/OK/A/2006/00163 – 7 July,2006.

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

Compensation :

Misbehaviour with applicants approaching public authorities under the R.T.I. is not acceptable and in direction violation of Sec 5 (3). In this case the PIO will invite Smt. Dasharathi to visit his office and identify members of his staff who refused to provide her the information. Under Sec. 19(8)(b) the Public Authority will pay Rs. 100/- as damages suffered to the applicant Smt. 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.

Language –s.2(f)

Jai Kumar Jain applied to Delhi Development Authority (D.D.A) asking for information in Hindi, as he has applied to the PIO in Hindi. CIC directed DDA to provide the requested information in(translated into) Hindi within 25 days of the issue of its decision.

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

Citizen - s.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.

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 had applied in his own name and had only given his address as 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 for the information.

CIC/OK/A/2006/00050 – 3 July,2006.

Form of access -s.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.

Form of access -s.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 record at the office and information specifically asked for provided in the form of printouts / copies of original documents / records duly certified.--

10/01/2005-CIC 25 February,2006.

Information Held -s. 2 (j) :

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

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

Can a requester seek opinions of the authorities?

No. The PIO is required to 'provide information' which is available in any form with her office rather than giving her ' personal opinion' on the questions asked by the requester.

CIC/MA/A/2006/00150-19 June,2006

Voluntary Disclosure -s.4(1)(b) :

A public authority, is required to make pro-active disclosure of all the relevant information as per provisions of s.4(1)(b), unless the same is exempt under the provisions of s.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.

Record Management –s.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

PIO- 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 P.A. Only in a case where the information sought is held by another P.A. other than the one which has designated her as PIO, she can transfer the request to that P.A. for furnishing information to the applicant directly. ICPB/C1/CIC/2006 - 6 March, 2006.

Life & Liberty –s.7(1) :

On the question of life and liberty, this Commission has ruled as follows in Appeal no CIC/WB/C/2006/00066 Of 19/4/2006,in *Shekhar Singh and Aruna Roy & Others Vs Prime Minister's 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 (e.g. 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".

Review

A review is permissible only:

- If there is a technical error in the decision
- If there was an omission to consider certain material facts relevant for the decision.
- If appellant was not given opportunity of being heard
- If PIO has not enclosed relevant supporting documents in his comments furnished to CIC.--Review Application No. 1/2006 - 16 May ,2006.

Drafting an appeal :

Appeal should be drafted in a simple and direct manner and 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.

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.

CIC/AT/A/2006/00128 – 13 July, 2006.

Compensation-s.19(8)(b):

For the first time, CIC in its decision No. 30/ICPB/2006, 13 June 2006- directed the public authority, CGHS (Central Government Health Scheme, Pune) to pay a sum of Rs. 5000/- 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's having to interact with PIO and CIC repeatedly, causing mental harassment to her.

Penalty-s.20(1):

For the first time ,Sri Wajahat Habibullah Chief Information Commissioner imposed a penalty of Rs.25000/- on a P.I.O.- Complaint No: CIC/WB/C/2006/00040,5 June,2006. PIO, has failed to appear before the Commission on the due date and time, despite a telephone reminder. Because the burden of proving that he acted reasonably and diligently is on the PIO under Proviso II 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 PIO has

- a) refused to receive an application
- b) not furnished the information within the time frame specified in Sec 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 by us in the Decision Notice of 23/5/'06, 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.25000/-

H.O.D.'s failure to assist the Commission

The Commissioner, 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 u/s176, 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 18th August,

2006 at 10:30 a.m. 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 u/s 20(2) of the Right to Information Act; and

c) as to why such further action/ actions be not taken as this Commission may deem fit and proper.

ii) He is further directed to furnish the name 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 him.

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

Penalty-s.20(1):

Commission imposed a penalty of Rs.13,750/- on Prof. Akhtar Majeed, Registrar, JamiaHamdard, 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 Prof. Akhtar Majeed and remit the amount by Demand Draft/Banker's Cheque drawn in favour of Pay & 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 15th September, 2006.

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

Disciplinary action-S.20(2):

CIC recommended disciplinary action against an appellate officer. This Appellate authority is not covered under the penalizing provisions of the Act. (But in this case) he clearly failed to uphold the law or Act in the public interest .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.

Due diligence- s.20(1)

It may have been a 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.

CIC on the Exemptions from disclosure of information

Commercial Secrets protected by Law -s.8(1)(d) and s.11(1) :

A request was received by Chief Commissioner of Customs, for 'names of importer / exporter' in the daily list of import and export which are being published from the custom houses. But a notification No.128/2004 - Cus(NT) dt.19.11.2004 forbids the disclosure of the names requested.

CIC held : 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 s.8(1)(d) of the RTIA.

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

Contract -s.8(1)(d) :

Ramesh chand applied to NISCAIR(National Institute of Science Communication and Information) information on terms of conditions and their implementation regarding a contract with another firm.

CIC held : A contract with a P.A 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 cannot be claimed. Any P.A claims exemption must be put to strictest proof that exemption is justifiably claimed. P.A was directed to disclose the list of employees.

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

Agreement between a public authority and a third party

Any commercial agreement between a public authority and a third party is a public document available for access to a citizen. No party to an agreement with a public authority could raise any objection 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

Answer sheets and fiduciary relationship-s.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 u/s 8(1)(e). In addition, when a candidate seeks for a copy of the evaluated answer paper, either of his/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 u/s 8(1)(j) of the Act. We, as a Commission, are not satisfied that the larger public interest justifies the disclosure of the information sought for by the appellant to direct that the CPIO to comply with the request of the appellant and as a matter of fact we are of the opinion that furnishing copies of the evaluated answer papers would be against 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

Cut-off marks

The appellant desired to know the marks obtained by him in the written examination as well as interview in the 'S.O. (Audit) Exam-2005' conducted by Staff Selection Commission (SSC). 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 reason for denial of information.

In a number of appeals / 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 sheet. In the instant case, the CPIO of SSC is directed to furnish the information.

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

Marks secured by candidates:

A Division Bench of this Commission has decided in Neeraj Kumar Singal (Appeal No.11/53/2006-CIC dt.2 May,2006 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 not be furnished.

Process of investigation s.8(1)(h) :

The fact that the appellant, a Member of Parliament (RS) and a former Minister [ShriArunJaitley,M.P.(RajyaSabha)] has sought access to the public records surely adds to the credence of the successful implementation of RTI Act. In the instant case, the information

sought is huge and that are 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 the voluminous information, so as to comply with the request of the appellant, may disproportionately divert the public resources, which is not permissible u/s 7(9) of the Act. The CBI is conducting further investigations under section 173(8) of the Cr.P.C. and, therefore, the issue of freezing and de-freezing of the accounts of Mr. Quattrocchi is not a closed matter, as contended by the appellant. In view of this, the exemptions claimed u/s 8(1)(h) by the CBI is justified.--157/IC(A)/2006- 1 Aug,2006.

Process of investigation s.8(1)(h) :

Delhi Police received a request for :

- result / Status of a particular case
- date wise details of each and every investigational steps taken to solve the case

CIC accepted the merit of the police authority's contention, that :

An open ended order by 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 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.

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.

U.S.Supreme Court in *FBI v. Abrabson*, 456 U.S.615 (1982)

Terrorism and FOI

Since 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 Sept. 11), in which he referred to a dam failure as a "weapon of mass destruction." Even though 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 v United States Bureau of Reclamation , 272F. supp.2d1313(D.utah 2003)

Cabinet papers-- s.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 material related thereto shall be disclosed after the decision under the first proviso of this sub-section. But, the wordings of the first proviso 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 ‘material’ connected with the Council of Ministers’ decision shall be disclosed but the deliberations of the officers, Secretaries etc. shall not be disclosed unless they answer affirmatively to the query “Are these material 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.

Cabinet papers-- s.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)/2006-3 July,2006.

Annual confidential report and Privacy- s.8(1)(j).

In regard to the annual confidential report of any officer, it is our view that what is contained therein is undoubtedly ‘personal information’ about that employee. The ACRs are protected from disclosure because arguably such disclosure seriously harm interpersonal relationship 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 public interest in terms of compromising objectivity of assessment –

which is the core and the substance of the ACR, which may result from the uneasiness of the Reporting, Reviewing and the Accepting officers from the knowledge that their comments were no longer confidential. These ACRs 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.

We, therefore, are of the view 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 he works for. On balance, therefore, confidentiality of this information serves a larger purpose, which far out-strips the argument for its disclosure.

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

Investigating officer and privacy

A citizen had requested from RBI for certain information relating to the findings of an inspection of the Memon Co-operative Bank Ltd, 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.

CIC directed 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 the major findings of the inspection report and indicating the action taken on the findings of the report.

The name of the investigating officer may not be revealed as it would not serve any public interest.

177/IC(A)/2006 - 17th August, 2006.

Bio-data forms -S.8(1)(f) :

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 / unfit.

- CIC held that when a candidate submits his application for appointment to a post under a P.A., the same becomes a public document and he cannot 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 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.

Traveling expenses :

The traveling expenses were charged to the public account, disclosure if the information can not be denied on the ground of 'personal information', 'not a public activity' and 'no public interest' etc. Travel had 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

I.T. Returns

Income Tax Returns filed by an assessee are confidential information which include details of commercial activities and that it relates to third person. These are submitted in fiduciary

capacities. There is no public action involved in the matter. Disclosure is exempted under s.8(1)(j).--22/IC(A)/2006 - 30 March,2006.

Period prior to 20 years -s.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) cannot 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

Third party

The RTI Act does not give a third party an automatic veto on disclosure of information. PIO and A.O 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 the circumstances of the case. A speaking order should thereafter be passed.

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

Public interest and environmental protection:

Shri Piyush Mahapatra of Gene Campaign, Sainik Farms, New Delhi made two applications on 5/12/06 at the Reception of the Ministry of Environment & Forests seeking information relating to i) **research and testing of a number of GM Crops and ii) studies and allergy/toxicity tests conducted on some GM crops**. CIC held: The CPIOs of Ministry of E&F 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 & 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 Sec 4 (1) to ensure ease of access. Decision No: CIC/WB/C/2006/00063 & CIC/WB/C/2006/00064- 30 May,2006.

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 IT returns filed by the third party. Apparently there is no direct relationship between malpractices of petrol and diesel and IT returns, which is mainly the basis for seeking information. Decision No.37/IC(A)/2006-12 May,2006.

Public interest

U.K. Information Commissioner in *Boston Borough Council* [Reference No. 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**.

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

For the first time after the enactment of the RTI Act, A High Court issued stay on a Decision given by CIC. The Delhi High Court on 22 August,2006 stayed the CIC Decision [CIC/MA/A/2006/00121-8 Aug,2006] directing the government to make available to it copies of late president K.R. Narayanan's letters to then prime minister Atal Bihari Vajpayee about the 2002 communal violence of Gujarat. Justice Anil Kumar stayed the August 8 order till January 11, 2007 on an application moved by the Union Government saying that the letters could not be made available to CIC as it would impinge on the national security and integrity.

The Information Commissioners-

1. Chief Information Commissioner (CIC) Shri Wajahat Habibullah
2. Information Commissioner (IC (PB)) Smt. Padma Balasubramanian
3. Information Commissioner (IC (K)) Dr. O. P. Kejriwal
4. Information Commissioner (IC (A)) Prof M.M. Ansari
5. Information Commissioner (IC (T)) Shri. A. N. Tiwar