F.No.31/07/2003-Vig.

Government of India/भारत सरकार

Ministry of Finance/वित्त मंत्रालय

Department of Revenue/ राजस्व विभाग

Vigilance Cell/ सतर्कता अनुभाग

***

North Block, New Delhi,
Dated 20th June, 2013

OFFICE MEMORANDUM

Subject: Circulars received from the Central Vigilance Commission - regarding.

With reference to the above stated subject the undersigned is directed to forward a copy of the following circular received from the Central Vigilance Commission for information and necessary action:

i) No.CVC/RTI/Misc/10/002 dt. 4.4.2013 -- Delhi High Court's decision in LPA No.618/2012 dated 06.11.2012 in the matter of disclosure of information under the provisions of RTI Act, relating to disciplinary matters.

Encl.: As above.

19/6/13
(Rajinder Kumar)
Under Secretary

1. CVO, CBDT
2. CVO, CBEC
3. Narcotics Commissioner, Central Bureau of Narcotics, Gawalior.
4. Spl. Secy cum Director General, CEIB, New Delhi
5. Secretary, Settlement Commission (IT/WT), New Delhi
6. Commissioner, Settlement Commission(C&CE), New Delhi
7. Registrar, CESTAT, New Delhi
8. Director, Enforcement Directorate, New Delhi.
9. C.A. Cell w.r.t. Competent Authority & ATFP,
10. Secretary, Authority of Advance Ruling (Income Tax), New Delhi
11. Chief Controller of Factories, Saraswati Tower, Nehru Place, New Delhi
12. Secretary, Authority of Advance Ruling (C&CE), New Delhi.
13. Director (Admn.), Department of Revenue, New Delhi.
14. Director (NC), Department of Revenue.
15. IFU, Department of Revenue.
16. SO(Computer Cell), Department of Revenue with the request to place the circular on the website of Department of Revenue.
17. Coord. Section, Department of Revenue with the request to circulate in the Department of Revenue.

RTI MATTER
MOST IMMEDIATE/OUT TODAY

FTS-89831/13

TelegraphicAddress :
"SATARKTA: New Delhi

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सत्यमेव जयते

केन्द्रीय सतर्कता आयोग
CENTRAL VIGILANCE COMMISSION

सतर्कता भवन, जी.पी.ओ. कॉम्प्लैक्स,
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023
Satarkta Bhawan, G.P.O. Complex,
Block A, INA, New Delhi 110023

CVC/RTI/Misc/10/002

सं./ No.....

04.04.2013

दिनांक / Dated.....

Sub: Delhi High Court's decision in LPA No. 618/2012 dated 06.11.2012 in the matter of disclosure of information under the provisions of RTI Act, relating to disciplinary matters.

The attention of the CVOs concerned is drawn to the Judgement/Order passed by the Hon'ble High Court of Delhi dated 06.11.2012 in LPA No. 618/2012 in case of Union Public Service Commission Vs R. K. Jain, in which the issue of disclosure of information/documents under the provisions of RTI Act, pertaining to vigilance/disciplinary proceedings has been considered by the Hon'ble Court.

The Hon'ble Court in its Judgement, had observed that:

"The counsel for the respondent has argued that in the case before the Supreme Court the CIC itself had denied the information while in the present case CIC itself has allowed the information. To our mind the same is irrelevant. The counsel for the respondent has next sought to take us through the reasoning given by the learned Single Judge. However, in the light of the dicta aforesaid of the Supreme Court and which if applicable to the facts of the present case is binding on this Bench, we are not required to go into the correctness or otherwise of the reasoning given by the learned Single Judge. Faced therewith the counsel for the respondent has lastly contended that the appellant UPSC in the present case is not the employer of the officer Shri G.S. Narang, information pertaining to whom was sought and the principle laid down by the Supreme Court is applicable to the employer only. We however fail to see the difference. The ratio of the dicta aforesaid of the Supreme Court is that the disciplinary orders and the documents in the course of disciplinary proceedings are personal information within the meaning of Section 8(1)(j) and the disclosure of which normally has no relationship to any public activities or public interest and disclosure of which would cause unwarranted invasion of the privacy of an individual. Though the appellant UPSC is not the employer of Shri G.S. Narang, information pertaining to whom is sought by the respondent, but his employer had sought the advice/opinion/recommendation of the appellant UPSC in the matter of disciplinary proceedings against the said Shri G.S. Narang and we fail to see as to how it makes a difference whether the information relating to disciplinary proceedings is sought from the employer or from the consultant of the employer. What is exempt in the hands of the employer would certainly be exempt in the hands of consultant of the employer also. The advice given by the appellant UPSC would necessarily pertain to the disciplinary action against Shri G.S. Narang. Section 8(1)(j) exempts from disclosure personal information, irrespective of with whom it is possessed and from whom disclosure thereof is sought".

Contd...2...

"The respondent at no stage set-up a case of the said personal information being required in public interest. In fact when we asked the counsel for the respondent as to what was the public interest in which the said personal information was sought, he replied by stating that an information seeker under the Act is not required to state the reasons for seeking the information. That being the position, the need for any discussion further on the said aspect does not arise".

"We therefore, following the dicta in ***Girish Ramchandra Deshpande,*** *set aside the judgment dated 13th july, 2012 of the learned Single Judge and allow the writ petition preferred by the appellant UPSC, consequently setting aside the order dated 12th January, 2011 of the CIC".*

3. The CVOs may bring the above quoted Judgement/Order of the Hon'ble High Court of Delhi to the notice of the all CPIOs/Appellate Authorities of their respective organization, who may take due cognizance of the same, while deciding the RTI Applications and Appeals relating to disclosure of documents/information pertaining to vigilance/disciplinary proceedings (including Orders of the Disciplinary Authority).

4. The complete decision of Hon'ble High Court of Delhi in the aforementioned case is available on its website www.delhihighcourt.nic.in in downloadable form under the head "JUDGEMENTS".

[Rajiv Verma]
Under Secretary & 'Nodal' CPIO
Tele.:24651081

To,

All Chief Vigilance Officers.