

केन्द्रीय सूचना आयोग
Central Information Commission
बाबा गंगनाथ मार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

द्वितीय अपील संख्या /Second Appeal No. CIC/SBIND/A/2018/167835

Vihar Durve

... अपीलकर्ता/Appellant

VERSUS

बनाम

CPIO: State Bank of India,
Mumbai.

...प्रतिवादीगण/Respondents

Relevant dates emerging from the appeal:

RTI : 16.06.2018	FA : 14.08.2018	SA : 08.11.2018
CPIO : 09.08.2018	FAO : 28.08.2018	Hearing : 05.11.2020

CORAM:

Hon'ble Commissioner
SHRI SURESH CHANDRA

ORDER

(21.12.2020)

1. The issues under consideration arising out of the **second appeal dated 08.11.2018** include non-receipt of the following information raised by the appellant through his RTI application dated 16.06.2018 and first appeal dated 14.08.2018:-

- (i) Furnish me (Yearwise from 2017 to 2018) relevant portion of Statutory Report/Audit Report/any other report/certificates submitted by Chartered Accountants relating to Electoral Bonds from the books of accounts of State Bank Of India (hereinafter SBI) (a) SBI Mumbai Main Branch Code 00300 (b) SBI Chennai Main Branch Code 00800 (c) SBI Kolkata Main Branch Code 00001 d) SBI New Delhi Main Branch Code 00691.

- (ii) Furnish me Guidelines, Circulars, Notifications, Office Memorandum Rules and Regulations, Copy of Act etc etc issued to Statutory Auditor i.e. to Chartered Accountants to conduct relating to certification/audit/signing of Balance sheets, Profit and Loss Account, Financial Statement, Trial Balance of Electoral Bonds.
- (iii) Furnish me Name and Designation of Officer who is supposed to issue Guidelines, Circulars, Notifications, Office Memorandum Rules and Regulations, Copy of Act relating to certification of Balance sheets, Profit and Loss Account, Financial Statement, Trial Balance by Statutory Report i.e. Chartered Accountants relating to Electoral Bonds.
- (iv) Furnish me (Yearwise from 2017 to 2018) relevant portion Accounting Standards, Guidance Notes applicable to conduct the certification/audit/signing of Balance sheets, Profit and Loss Account, Financial Statement, Trial Balance of Electoral Bonds.
- (v) Whether the details of Donor and Donee are available to Chartered Accountants relating to Electoral Bonds while certification/audit/signing of Balance sheets, Profit and Loss Account, Financial Statement, Trial Balance of Electoral Bonds.
- (vi) Furnish me details of Donor and Donee made available to Chartered Accountants relating to Electoral Bonds while certification/audit/signing of Balance sheets, Profit and Loss Account, Financial Statement, Trial Balance of Electoral Bonds of (a) SBI Mumbai Main Branch Code 00300 (b) SBI Chennai Main Branch Code 00800 (c) SBI Kolkata Main Branch Code 00001 d) SBI New Delhi Main Branch Code 00691.
- (vii) Furnish me details of Donor and Donee of Electoral Bonds from the books of accounts of (a) SBI Mumbai Main Branch Code 00300 (b) SBI Chennai Main Branch Code 00800 (c) SBI Kolkata Main Branch Code 00001 d) SBI New Delhi Main Branch Code 00691.
- (viii) Furnish me letter no 24400/2017/0/o US(PP6M) dtd 26th May 2017 written by Election Commission to The Secretary, Legislature Department Ministry of Law

and Justice, Shastri Bhavan New Delhi relating to Electoral Bonds and its impact on Transparency, corruption in India.

- (ix) Furnish me details /records, correspondence and the impact of certain amendments in the Income Tax Act, the Representation of the People Act 1951 and the Companies Act 2013 to introduce/issue Electoral Bonds for funding political parties on Transparency, corruption in India.
- (x) Furnish me Telephone Number and Email Id of Central Public Information Officer and Appellate Authority as per Official Memorandum of Det of Personnel and Training available on www.rti.gov.in > Circulars.

2. Succinctly facts of the case are that the appellant filed an application dated 16.06.2018 under the Right to Information Act, 2005 (RTI Act) before the Central Public Information Officer (CPIO), State Bank of India, Mumbai, seeking aforesaid information. The CPIO vide letter dated 09.08.2018 replied to the appellant. Dissatisfied with this, the appellant filed first appeal dated 14.08.2018. The First Appellate Authority vide order dated 28.08.2018 disposed of the first appeal. Aggrieved by this, the appellant filed a second appeal dated 08.11.2018 before this Commission which is under consideration.

3. The appellant has filed the instant appeal dated 08.11.2018 *inter alia* on the grounds that reply given by the CPIO was wrong, incomplete and misleading. The appellant pleaded that the SBI was supposed to uphold public interest and not the interest of political parties and that the SBI was not in fiduciary capacity with any political party and hence had no legal duty to maximize the benefit of any public sector or private sector bank; there was no relationship of “trust” between them. The appellant requested that the information was to be disclosed in the interest of transparency, accountability and efficient functioning of Enforcement Directorate. The appellant requested the Commission to direct the CPIO to provide the complete information and take necessary action as per Section 20 (1) of the RTI Act.

4. The CPIO replied vide letter dated 09.08.2018 that the information in respect of point nos 1 to 5, 8, 9 of the RTI application was not available with the bank; and that the information in respect of point nos 6 and 7 of the RTI application was exempted under

section 8 (1) (e) and (j) of RTI Act; information in respect of point no. 11 of the RTI application was not covered within the definition of “information” under section 2 (f) of RTI Act and no link was maintained in respect of point no. 12 of the RTI Application. The FAA held that the information relating to electoral bonds issued to various political parties sought by the appellant was held by the bank in fiduciary capacity and hence was denied to the appellant.

5. The appellant and on behalf of the respondent Shri Naresh Kumar Raheja, CPIO, State Bank of India, Bandra, attended the hearing through video conference.

5.1. The appellant *inter alia* submitted that the Institute of Chartered Accountants suggested to Election Commission vide letter no. FRRB/2013-14 that transparency be maintained in respect of accounts of political parties and adherence to globally accepted accounting standards. The appellant further submitted that Chartered Accountant appointed by RBI was under an obligation to sign balance sheet of SBI, hence, it was in the larger public interest that the information be disclosed by the respondent. The appellant insisted upon information in respect of point nos 6,7 and 12 of RTI application.

5.2. The respondent while defending their case *inter alia* submitted that the appellant had pressed for the information sought in point nos 6,7 and 12 of the RTI application in his second appeal. The respondent reiterated that they had furnished the information in respect of details of total amount in rupees of electoral bonds issued in different cities from the year 2018 to 2020. However, the names of donors being third party information and relating to their customers were held by the bank in fiduciary capacity. Therefore, the information was exempted under provisions of section 8 (1) (e) and (j) of RTI Act. Further, the web link sought in respect of point no 12 of the RTI application was not maintained by them and the information which was not in existence i.e. the information sought which was not part of the record of public authority, the RTI Act did not cast an obligation upon the public authority to create, collect or collate such information and then furnish it to the appellant. The respondent further referred to the Electoral Bond Scheme 2018 and as per the clause 7 (4) of the said scheme, the information furnished by the buyer shall be treated as confidential by the authorized bank (SBI) and shall not be disclosed to any authority for

any purpose. Therefore, the respondent reiterated that the information except the personal details already having been provided, the appeal deserved to be dismissed.

6. The Commission after adverting to the facts and circumstances of the case, hearing both parties and perusal of records, observes that the respondent has revisited the RTI application and reiterated its earlier stand in respect of point no. 6 and 7 of the RTI application that the disclosure of the information was exempted under the provisions of section 8 (1) (e) and (j) of the RTI Act. The Commission notes that due reply has been given to the appellant vide letter dated 12.03.2020. The Commission upholds the contention of the respondent that in the disclosure of the names of the donors and donees of electoral bonds from books of accounts may be in contravention of the provisions contained under section 8 (1) (e) and (j) of RTI Act. There appears to be no larger public interest overriding the right to privacy of the donors and donees concerned. Accordingly, the appeal is dismissed.

Copy of the decision be provided free of cost to the parties.

Sd/-
(Suresh Chandra) (सुरेश चंद्रा)
Information Commissioner (सूचना आयुक्त)
दिनांक/Date: 21.12.2020

Authenticated true copy

R. Sitarama Murthy (आर. सीताराम मूर्ती)
Dy. Registrar (उप पंजीयक)
011-26181927(०११-२६१८१९२७)

Addresses of the parties:

CPIO :

1. STATE BANK OF INDIA
Transaction Banking Unit,
Corporate Centre, Voltas
House, 1st Floor, 23, J.N.
Heredia Marg, Ballared
Estate, Fort, Mumbai – 400001

THE F.A.A, GENERAL MANAGER (TBU),
STATE BANK OF INDIA,
Transaction Banking Unit,
Corporate Centre,
Voltas House, 1st Floor,
23, J.N. Heredia Marg, Ballard
Estate, Fort, Mumbai - 400 001

Vihar Durve

