

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Judgment reserved on: 29.05.2012

% **Judgment delivered on: 14.06.2012**

+ **W.P.(C) 3382/2012**

PRESIDENT'S SECRETARIAT Petitioner
Through: Mr. A.S. Chandhiok, ASG, along
with Mr. Ravinder Agarwal, CGSC.

versus

NITISH KUMAR TRIPATHI Respondent
Through:

**CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI**

J U D G M E N T

VIPIN SANGHI, J.

1. The petitioner President's Secretariat, through its Secretary, has preferred the present writ petition under Article 226 of the Constitution of India to assail the order dated 4th May, 2012 passed by the Central Information Commission, New Delhi (CIC), whereby the appeal preferred before it by the respondent has been allowed, and directions have been issued to the petitioner to provide information under the Right to Information Act (the Act) sought by the respondent in relation to the donations made by the President from time to time.

A direction has also been issued to the petitioner to take steps to publish the details regarding the donations made i.e. the names of the recipients of the donations, their addresses and the amount of donation in each case, on the website of the President's Secretariat at the earliest.

2. Nine RTI applications had been moved by the respondent before the petitioner. Most of the information had been provided. However, information in relation to the donations made by the President from time to time was not disclosed by invoking Section 8 (1) (j) of the Act i.e. by treating the information as personal information, the disclosure of which was stated to be not in the public interest. The Ld. CIC has, however, rejected the said defence of the petitioner, and has directed disclosure of the information.

3. The submission of learned ASG Sh. A.S. Chandhiok, firstly, is that a perusal of the impugned order shows that the CIC has equated donations made by the President with subsidy, which is not the case. It is also submitted that the learned CIC has not dealt with the petitioner's submissions founded upon Section 8 (1) (j) of the Act. It is also argued that the right to privacy of third parties would be breached, in case such disclosure is made. In any event, the right of third parties/recipients of the donation, to oppose disclosure by resort to Section 11 has not been dealt with. It is argued that the matter

requires consideration, and the petition should be admitted for further hearing by the court. Mr. Chandhiok submits that the CIC has not followed its earlier decision rendered in Appeal No. CIC/WB/A/2009/000217 dated 18.12.2009, wherein it had been held that the querist had no right to seek information in relation to donations made from out of the Prime Minister's Relief Fund.

4. Having heard the learned ASG, perused the impugned order as well as the Provisions of the Act, I do not find any merit in either of the submissions of Mr. Chandihok, and in my view the impugned order is perfectly legal and does not call for interference by this court in exercise of its writ jurisdiction.

5. A perusal of the impugned order shows that the donations made by the President are out of public funds. Public funds are those funds which are collected by the state from the citizens by imposition of taxes, duties, cess, services charges, etc. These funds are held by the state in trust for being utilized for the benefit of the general public. During the course of arguments, I repeatedly raised a specific query to the learned ASG. It was enquired whether the donations have been made from a separate fund created from out of voluntary contributions/donations made by the people, and placed at the hands of the President for being further disbursed by him/her, in his/her discretion, to the deserving and needy people. However, I did not get

an answer in the affirmative. It was also enquired whether the President is disbursing the donations from out of a public fund as noted by the learned CIC in his order. Even to this, there was no denial.

6. The aforesaid being the position, the reliance placed by the petitioner on the earlier decision of the CIC dated 18.12.2009, pertaining to the disclosure of information under the Act in relation to the Prime Minister's Relief Fund, would have no application to the facts of the present case, assuming for the sake of arguments that the said decision of the CIC takes the correct view. Since this Court is not concerned with the disclosures vis-à-vis the Prime Ministers Relief Fund, the said issue is not being dealt with herein. In any event, unlike in the case of the Prime Minister's Relief Fund, in the present case, the donations have been made by the Hon'ble President of India from the tax payers money. Every citizen is entitled to know as to how the money, which is collected by the State from him by exaction has been utilized. Merely because the person making the donations happens to be the President of India, is no ground to withhold the said information. The Hon'ble President of India is not immune from the application of the Act. What is important is, that it is a public fund which is being donated by the President, and not his/her private fund placed at his/her disposal for being distributed/donated amongst the needy and deserving persons.

7. The learned ASG has submitted that the disclosure of information with regard to the donations made by the President would impinge on the privacy of the persons receiving the donations, as their financial distress, other circumstances, and need would become public.

8. I do not find any merit in the aforesaid submission of the learned ASG. Firstly, I may note that the learned CIC has directed disclosure of some basic information, such as the names of the recipients of the donations, their addresses and the amount of donation made in each case. Further details i.e. the facts of each case, and the justification for making the donation have not been directed to be provided. Even if further details are sought by a querist in relation to any specific instance of donation made by the President, the same would have to be dealt with in terms of the Act. There could be instances where the entire details may not be disclosed by resort to Sections 8, 10 and 11 of the Act. However, it cannot be said that mere disclosure of the names, addresses and the amounts disbursed to each of the donees would infringe the protection provided to them Under Section 8 (1) (j) of the Act.

9. The donations made by the President of India cannot said to relate to personal information of the President. It cannot be said that the disclosure of the information would cause unwarranted invasion of the privacy of, either the President of India, or the recipient of the

donation. A person who approaches the President, seeking a donation, can have no qualms in the disclosure of his/her name, address, the amount received by him/her as donation or even the circumstance which compelled him or her to approach the First Citizen of the country to seek a donation. Such acts of generosity and magnanimity done by the President should be placed in the public domain as they would enhance the stature of the office of the President of India. In that sense, the disclosure of the information would be in the public interest as well.

10. The submission of Mr. Chandihok that the learned CIC has confused donations with subsidy is not correct. The CIC has consciously noted that donations are being made by the President from the public fund. It is this feature which has led the learned CIC to observe that donations from out of public fund cannot be treated differently from subsidy given by the Government to the citizens under various welfare schemes. It cannot be said that the CIC has misunderstood donations as subsidies. The relevant extract from the order of the CIC reads as follows:-

“We do not find the decision of the CPIO in conformity with the provisions of the RTI Act. In fact, every public authority is mandated under Section 4 (1) (b) (xii) of the RTI Act to publish on its own the details of the beneficiaries of any kind of subsidy given by the government. The donations given by the President of India out of the public

funds cannot be treated differently from the subsidy given by the government given to the citizens under various welfare schemes. The people of India have a right to know about such donations. Some minimum details, such as, the names of the receivers of the donations, their address and the amount of donation in each case should be published from time to time in the website of the President Secretariat itself. Therefore, we not only direct the CPIO to provide this information to the Appellant within 15 working days of receiving this order, we also direct him to take steps to publish such details in the website of the President Secretariat at the earliest."

11. For all the aforesaid reasons, I find no merit in this petition and dismiss the same. The interim order stands vacated.

VIPIN SANGHI, J

JUNE 14, 2012

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