

## CENTRAL INFORMATION COMMISSION

Room No.308, B wing, August Kranti Bhawan,  
Bhikaji Cama Place, New Delhi-110066

**Complaint No. CIC/PB/C/2008/00947**

**Complainant: Shri Girdhari Lal Bhargava**  
**Respondent: All India Chess Federation**  
**Date of Decision 20.3.2009**

### FACTS:-

By his letter of 09/08/2008, the complainant had requested for information from All India Chess Federation (Federation hereinafter) on the following six points:-

1. Constitution of All India Chess Federation approved by Registrar.
  2. Financial Regulations of AICF.
  3. Rules for organizers.
  4. Rules of code of conduct for organizers for championship/ tournaments.
  5. Constitution of All Rajputana Chess Association and name and address of its office bearers/executive. Whether the recognition is granted to ARCA by AICF and if so, is it in accordance with Rajasthan State (Registration, Regulation and Recognition) Sports Act, 2005.
  6. Name and address of Members of Central Council of AICF."
2. To this, Shri D.V. Sunder, Hony. Secretary, All India Chess Federation, had responded vide his letter dated 25/09/2008, mentioning therein that the Federation was not notified as Public Authority as required under the provisions of RTI Act and, had declined to furnish information to the complainant.
  3. The complainant did not move the Appellate Authority and has filed the present complaint before the Commission.
  4. The matter was heard on 28/01/2009. The complainant is represented by Shri Akshay Sharma and Shri Ashok Bhargava. The Ministry of Youth Affairs & Sports is represented by Shri Joe Sebastian, Director and Ms. Dipika Kachhal, Director. Shri Akshay Sharma has produced before me a copy of the letter dated 06/02/2006 of Shri D.V. Sunder, Secretary

of the Federation wherein he has, inter alia, mentioned as follows:-

"The Government of India grants about Rs.2 lacs to meet the expenses of the Tournaments and the expenses of players sponsored by All India Chess Federation to play in the international tournaments. The State Governments and the Government of Tamilnadu give munificent grants to encourage and groom the players to achieve further accreditation at National and International levels."

4. Shri Sharma has also furnished a copy of the affidavit dated 20/04/2007 filed by the Federation before the Hon'ble Madras High Court, in para 12 whereof it is averred as follows:-

"The applicant respectfully submits that the Ministry of Youth Affairs & Sports of the Government of India is refusing to release the annual grant-in-aid of Rs.2 crores."

By furnishing the above documents, it is Shri Sharma's endeavour to establish that the Federation is substantially financed by the Central Government and State Governments and, therefore, it falls in the domain of section 2(h) of the RTI Act.

5. Shri Sharma has also drawn my attention to letter dated 08/07/2008 of the Hony. Secretary of the Federation addressed to the Commission wherein it has been claimed that the Federation is not "financed directly or indirectly by the Government funds to run its affairs." It is the submission of Shri Sharma that the Federation has deliberately furnished misleading and factually incorrect information to the Commission.
6. Shri Joe Sebastian, Director, Ministry of Youth Affairs & Sports furnishes a written representation dated 22/01/2009(wrongly written as 22/01/2008) which is taken on record. Paras (c) and (d) from the representation are quoted hereinafter:-

"c) that the All India Chess Federation is recognized by the Ministry as the National Sports Federation for the promotion of Chess in the country. The federation receives direct grant from the government for holding national & international events in India, participation in competition & training held abroad, etc. The Government has released following financial assistance during the last four years to AICF:-

|           |                  |                 |
|-----------|------------------|-----------------|
| 2005-06 - | Rs. 78,94,196/-  |                 |
| 2006-07 - | Rs.1,04,17,646/- |                 |
| 2007-08 - | Rs.2,39,77,451/- |                 |
| 2008-09 - | Rs.1,67,44,802/- | (As on 22.1.09) |

d) that the Ministry is examining the issue of declaring the national Sports Federation as the Public Authority. On the basis of CIC's order dated 28th November, 2006, in Appeal No. 163/ICPB/2006, the Ministry had declared the Indian Olympic Association and the Organising Committee Commonwealth Games, 2010 as the Public Authorities. However, both the organizations have got stay from the High Court of Delhi and the matter is subjudice."

7. In this connection, I may refer to the decision of this Commission in Appeal No. 163/ICPB/2006. F.No.CIC/PB/A/2006/00158 dated 28/11/2006 (Shri Veeresh Malik Vs. Indian Olympic Association) which has direct bearing on the matter under consideration. After considering the rival contentions, the Commission had held that Indian Olympic Association is a public authority and had directed as follows:-

"Accordingly I direct IOA to publish details as required in terms of 4(b) of RTI Act and also to designate CPIO&AA within a month from the date of this decision. It will also furnish the information sought by the complainant by the same date. Ministry of Sports shall ensure compliance of this decision."

8. Subsequent thereto the Ministry of Youth Affairs and Sports had designated the Indian Olympic Association and the Organising Committee, Commonwealth Games, 2010, as the public authority, but the order of the Ministry was stayed by the Hon'ble Delhi High Court vide its order dated 05/02/2007.

9. As the matter herein raised an important legal issue, it was decided to hear the Chess Federation of India. Hence, a notice was issued to Shri N. Srinivasan, President, All India Chess Federation and Shri D.V. Sunder, Hony. Secretary, All India Chess Federation, and the matter was adjourned to 12/02/2009.

10. As scheduled the matter was heard on 12.2.2009. Shri D.V. Sunder, Secretary of the All India Chess Federation, Shri Bharat Singh Chauhan & Sr. Advocate Shri N.S. Shivam appeared before the Commission. Sr. Advocate Shivam would make the following submissions :

- i. that the All India Chess Federation is a Society registered under the Tamilnadu Societies ACT;
  - ii. that, undoubtedly, the Central Government has been giving grants to the Federation but it is being done on event to event basis to meet the travel and lodging and boarding expenses of the Chess Players within the country and abroad;
  - iii. that out of the grants received from the Central Government, every single penny is being spent for the purpose mentioned herein above and is not being spent on the office bearers of the Federation or in relation to the functioning of the Federation.
  - iv. that the accounts of the Federation are auditable by the Comptroller & auditor General of India.
  - v. that the Central Government does not give grants to the Federation until the previous accounts have been settled;
  - vi. that this issue whether the Federation is a Public Authority had earlier come up before the Central government but the Central Government had not communicated any decision on this regard which is reflective of the Government's thinking on this issue.
11. His overall submission is that the Federation is not a Public Authority on terms of section 2(h) of the RTI Act.
  12. Shri Sunder would submit that at no point of time, the Federation has tried to mislead the Commission in any manner whatsoever, as pleaded by Shri Sharma on behalf of the applicant. His endeavor was only to bring factually correct position to the notice of the commission.
  13. When queried as to the overall budget of the Federation for the years 2005-06, 2006-07, 2007-08 & 2008-09, Sr. Advocate Shivam would submit that he would need some more time to obtain these figures from the Federation and submit the same before the Commission. Sr. Advocate Shivam also would submit that he would need some time to address the Commission regarding this Commission's decision dated 28.11.2006 (Shri Veeresh Malik Vs. Indian Olympic Association).
  14. Hence the matter was adjourned to 27.2.2009.
  15. As scheduled, the matter was heard on 27.2.2009. The following were

present:

- i. Shri Bharat Singh Chauhan for All India Chess Federation;
- ii. Shri Joe, Sebestain, Directo4r, Ministry of YOUTH Affairs & Sports;
- iii. Shri N.K. Sharma & Shri D.K. Sharma for the complainant.

16. All India Chess Federation has filed written representation signed by its Honorary Secretary which is taken on record. Para 1 of the representation mentions the grants received from the Government and the income of the Federation by subscription and other sources. The figures are given below: -

| S. No. | Year    | Government Grant for<br>AICF by<br>specific sports expenses<br>for its functioning<br>in India/Abroad | Government Expenditure of AICF<br>Sources | Income of<br>subscription & other |
|--------|---------|---|---|-----------------------------------|
| 1      | 2005-06 | Rs. 0,78,94,196   | Rs. 0,62,69,890                           | 53,44,212.60                      |
| 2      | 2006-07 | Rs. 1,04,17,645   | Rs. 1,64,57,953                           | 55,63,367.85                      |
| 3      | 2007-08 | Rs. 2,39,77,451   | Rs.1,05,57,826                            | 78,42,275.52                      |
| 4      | 2008-09 | Rs. 1,67,44,802   | Rs. 1,33,50,854                           | 48,13,872.56                      |

(As on 22.1.09) - figures to be checked again as same were not readable in the fax

17. This has also been pleaded on behalf of the Federation that as per section 14 (1) of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act 1971, non-governmental organisations can be deemed to be 'substantially financed only when the grant or loan given by government forms more than 75% of the total expenditure of a body/authority. The Federation has thus tried to canvass that as the funding from the government sources is less than 75% of the total budget of the Federation for the year mentioned above, the Federation cannot be said to be 'substantially financed' by the Government and, therefore, can not be deemed to be 'public authority'.

18. On the other hand, it is the submission of Shri N. K. Sharma that section 14 of the Comptroller & Auditor General's (duties, Powers and Conditions of Service) Act, 1971, is not applicable in the matter in hand in as much as this section relates to the audit of receipts and expenditure of bodies or authorities substantially financed from the

Union or State Revenues and it has no concern whatsoever with the determination of what constitutes 'public authority' in terms of section 2(h) of the RTI Act. It is his forceful submission that the Federation is a 'public authority' by virtue of being substantially funded by the Government and is legally bound to respond to the RTI application question.

19. The question for consideration before this Commission is whether the Federation is a 'public authority'. IN this context, it may be apt to refer to the case law. It was pleaded before the Hon'ble Punjab & Haryana High Court that DAV Colleges & Schopols in Punjab/chandigarh etc. were not public authority in terms of section 2(h) of the RTI Act. the Hon'ble High Court in its order dated 25.2.2008 in DAV College, Trust and Management Society and other Vs Director of Public Instructions and others held as follows: -

"A perusal of the definition of 'public authority' would mean any authority or body or institution established or constituted apart from other things by the notification issued by an order made by the appropriate Government. It is to include even any body, owned, controlled or substantially financed or non-Government Organisation substantially financed directly or indirectly by the funds provided by the appropriate Government. It is undisputed that the petitioners are receiving substantial grant-in-aid from the Chandigarh Administration. Once a body is substantially financed by the Government, the functions of such body partake the character of 'public authority'. The definition of expression public authority would include any organisation/body owned, controlled or substantially financed directly or indirectly by funds provided by the Government even the non-government organisation which is substantially financed. The petitioner has claimed that they are getting only 45% grant-in-aid after admitting that initially the grant in aid paid to them was to the extent of 95% which was given initially allowing the petitioner to build up its own infrastructure and reducing the grant in aid later which was .....substantial grant-in-aid is received, and, therefore, it could not be regarded as 'public authority'. Therefore, we do not find any substance in the stances taken by the petitioner that it is not a 'public authority'.

20. It is note worthy even 45% grant in aid was found sufficient to hold cioncered DAV institutiion as 'public authority'.

21. A similar issue came up before the Hon'ble Madras High Court in Tamilnadu. Road Development Corporation Ltd. Vs. Tamilnadu Information Commission. The question before the Hon'ble High Court was whether Tamilnadu Road Development Company is substantially financed or not. The Hon'ble High Court vide his order dated 5.8.2008 held as follows:

"The RTI Act has also provided a remedy for facilitating the exercise of the Right to Information and the reason for the remedy is also indicated in the Preamble to the Act. So going by the direction in Heydon's Case, followed by the Supre Court in Bengal Immunity(supra) such an Act must receive a purposive interpretation to further the purpose of the Act. So any interpretation which frustrates the purpose of the RTI Act must be eschewed. Following the said well known canon of construction, this Court interprets the expression 'public authority' under section 2(h) (d) (i) liberally, so that authorities like the appellant who are Controlled and substantially financed directly or indirectly, by the government come within the purview of the RTI Act. In coming to the conclusion, this Court reminds itself of the Preamble to the RTI Act which necessitates a construction which will hopefully atleast .....corruption and infuse transparency in its activities. In this context, a few lines from Joseph Pulitzer, in a slightly different context will be very apt and are reproduced hereunder:

"There is not a crime, there is not a dodge, there is not a trick, there is not a swindle which dies not live by secrecy. Get these things out in the open, describe them, attack them, ridicule them in the press, and sooner or later public opinion will sweep them away.

This Court, therefore, holds that the appellant is a 'public authority' within the meaning of Section 2 (h) (d) (i) of the RTI Act, and the learned Judge of the writ Court come to a correction conclusion, may be on the basis of ..... different reasons."

22. From the table given in para 16 above, it would be seen that, admittedly the Government funding was about 86% in 2005-06, about 50% in 2006-07, about 69% in 2007-08 and about 55% in 2008-09. As mentioned above, the Hon'ble Punjab and Haryana High Court has construed even 45% grant in aid as constituting substantial financing. Further, the Hon'ble Madras High Court has underlined the need of purposive interpretation to further the purpose of the RTI Act. In view of the

law laid down by the Hon'ble High Courts, the submission made on behalf of the Federation lacks force and deserves to be rejected.

23. Shri D. V. Sunder, HOn. Secretary of the federation vide fax message dated 20.3.2009 has informed the Commission that Shri Girdhari Lal Bhargava, complainant herein, expired on 8th March, 2009, which is taken on record.

#### DECISION

24. In view of the above discussion it is held that the All India Chess Federation is a "public Authority" as defined under section 2(h) of the RTI Act. Hence, the Federation is hereby directed to publish details as required under section 4(1.)\_(b) of the RTI Act and also to designate CPIO & Appellate Authority within a month's time from the date of this decision."

25. The present matter, has, however, become infructuous due to the said demise of the complainant.

26. The matter is disposed of subject to the above directions.

Sd/-  
(M.L. Sharma)

Central Information Commissioner

Authenticated true copy. Additional copies of orders shall be supplied against application and payment of the charges, prescribed under the Act, to the CPIO of this Commission.

(K.L. Das)  
Assistant Registrar  
Tele: 011 2671 73 53