

CENTRAL INFORMATION COMMISSION

(Room No.315, B-Wing, August Kranti Bhawan, Bhikaji Cama Place, New Delhi 110 066)

Prof. M. Sridhar Acharyulu (Madabhushi Sridhar)

Central Information Commissioner

CIC/RM/A/2014/002448-SA

**Samrat Sharma, Roorkee v. PIO, Hemwati Nandan Bahuguna
Garhwal University, Srinagar**

Important Dates and time taken:

RTI: 19.02.2014	FAO: 25.03.2014	SA: 25.04.2014
posted for hearing to 28.11.2016 at 2.30 PM	Hearing: 24.10.2016	Decided on: 27.10.2016

Parties Present:

1. Appellant: Present.

Public authority: Dr. Y. S. Paswan.

FACTS:

2. The appellant filed RTI on 19.02.2014 and sought information about action taken on his complaints dated 31.1.2014 and 29.02.2014 alleging his unjustifiable suspension after he exposed the irregularities in expenditure of fund/ misappropriation of Rs. 4 lac in Hindi department of BSMPG College, Roorkee etc. The CPIO gave reply on 25.2.2014 stating that college authorities are empowered to suspend his services under relevant provisions. The FAA upheld the answer given by the CPIO. The appellant appealed before this Commission.

Decision :

3. The appellant claimed that he has exposed embezzlement of Rs. 4 lac in BSMPG College, Roorkee which is a govt. aided college, because of which he was wrongfully suspended. He is asking under what clause of law he was suspended.

The appellant is asking action taken report on his complaint dated 29.02.2014. He said that PIO of the university himself was appointed as investigating officer in the case. Dr. Y. S. Paswan, PIO says that he was not that investigating officer, but Mr. A. K. Mohanty, another PIO and Dy. Registrar(Affiliation and Recruitment) was the investigating officer at that time.

4. The appellant said that the Accountant General of Uttarakhand has found the embezzlement of Rs. 32 lac and copy of Accountant General Report was sent to the Vice Chancellor, but he was terminated by the college management. The appellant says that the PIO and the investigating officer has supported the management and did not question the continuation of suspension beyond four weeks though it was illegal, because of this the management got emboldened to terminate him. The appellant stated that he could have been reinstated had the PIO/Investigating Officer responded within time and acted as per law.

5. Any quasi-judicial decision should be disclosed under section 4(1)(b) of RTI Act, which was not done by the University and the college. RTI is a tool for fighting against corruption and inaction that facilitates corruption. It appears that the authorities facilitated embezzlement by inaction. Hence, both University and college authorities should be accountable and answerable.

6. The problem of corruption, red tapism, inaction, procrastination and nepotism or preferential treatment cannot be fully answered, unless words of access to information are suitably translated from the pages of the statute books to consequential information in the hands of members of the public. The Whistleblowers Protection Act, 2014 enables any person to make a public interest disclosure against a public servant or against an act of corruption and wilful misuse of power or discretion by a public servant, including Ministers, Members of Parliament, the lower judiciary, regulatory authorities, central and state government employees, etc. Such disclosures are made to competent authority that must conduct a discreet inquiry and conceal the identity of the complainant and public servant. The appellant had every right to know how public funds are allocated in the college and report any act of corruption to competent authority/college management, which should have appreciated his anti-corruption concerns and should have inquired. Instead of providing adequate safeguards against victimization of the whistleblower-appellant, he

was penalized for exposing corruption. The risk of corruption is considerably high in environments where the reporting of wrongdoing is not supported or sheltered and whistle-blower is threatened. Those who report unlawful activity should not be made subjects of retaliation, intimidation, harassment, dismissal, suspension or violence. Whistleblower protection is thus vital to give confidence to reporting of misconduct, fraud and corruption. Providing effectual shield for whistleblowers supports an open and transparent organisational culture where workforce is not only conscious of how to report in good faith but also have self-confidence in the reporting procedures using RTI, accessing wrongs and exposing suspected acts of corruption and other wrongdoing is therefore integral to efforts to combat corruption, safeguard integrity, develop accountability, and support untainted public dealing.

7. The Whistleblowers Protection Act, 2014 offers protection to the persons making disclosure in terms of sections 11(1) and (2) of the Act. It casts a duty upon Central Government to ensure that no person or a public servant who has made a disclosure under this Act is victimised by **initiation of any proceedings against him** or otherwise **merely on the ground that such person or a public servant had made a disclosure** or rendered assistance in inquiry under this Act. If any person is being victimised or likely to be victimised on the ground that he had filed a complaint or made disclosure or rendered assistance in inquiry under this Act, he may file an application before the Competent Authority seeking redress in the matter, and such authority shall take such action, as deemed fit and may give suitable directions to the concerned public servant or the public authority, as the case may be, to protect such person from being victimised or avoid his victimisation. Also, under section 14 of the Act, if the Competent Authority, at any time after the making of disclosure by the complainant or public servant, is of the opinion that any corrupt practice is required to be stopped during the continuation of any inquiry for the said purpose may pass such interim orders as it may deem fit, to prevent the immediate stoppage of such practice. They should not act as advocate of corruption by choking voice of such whistle blowers who will be forced by circumstances to adopt 'silence' as the preferred option instead of exclaiming truth in public interest. The Vice Chancellor of University and the College management being competent authority in this case, have a statutory duty to

explain what they did to protect whistle blower appellant and why did they not inquire into alleged illegal dismissal, if they are sincere in opposing embezzlement, if happened.

8. The Commission takes this appeal as a complaint and directs the Principal, Dr. Vipin Pratap Gautam, Shri Manohar Lal Sharma, President of the Management Committee and Mr. A. K. Mohanty, PIO & investigating officer to provide their statements in form of an affidavit along with certified copies of all documents relevant and relied upon.

9. The Commission directs respondent authority to provide copy of inquiry report along with action taken by the university on that report and if no action taken, report reasons for such inaction.

10. The Commission directs Vice Chancellor and Registrar of the university to inform the appellant what action was taken on the complaint of the appellant, and on the report of Accountant General exposing the embezzlement, and protection they offered to whistle-blower appellant.

11. The Commission directs Dr. Y. S. Paswan, PIO to show-cause why maximum penalty should not be imposed against him for not furnishing complete information. The Commission also directs Vice Chancellor and the Registrar to explain why each of them should not be considered as deemed PIOs for obstructing the information to be provided to the appellant, and why penal proceedings should not be initiated against each of them, and explain why the university should not be ordered to pay compensation to the appellant who suffered suspension and termination because of exposing corruption by the management which was prima facie confirmed by the Accountant General, Uttarakhand Government, within 21 days from the date of receipt of this order.

12. The Commission directs the Principal, Dr. Vipin Pratap Gautam, Shri Manohar Lal Sharma, President of the Management Committee and Mr. A. K. Mohanty, considering them as deemed PIOs to show cause why penalty proceedings should not be initiated against them for obstructing the information to be given to the appellant, within 21 days from the date of receipt of this order.

13. The inquiry is posted for hearing to 28.11.2016 at 2.30 PM. Principal, Dr. Vipin Pratap Gautam, Shri Manohar Lal Sharma, President of the Management

Committee, and Mr. A. K. Mohanty are directed to be present in person before this Commission on 28.11.2016 at 2.30 PM for hearing, in default of which Commission will be compelled to take strict measures to enforce their presence or draw adverse inferences.

Sd/-

(M. Sridhar Acharyulu)
Central Information Commissioner

Authenticated true copy

(Dinesh Kumar)
Deputy Registrar

Copy of decision given to the parties free of cost.

Addresses of the parties:

1. The CPIO under RTI,
Hemwati Nandan Bahuguna Garhwal University,
Dist. Pauri Garhwal, Srinagar-246174,
Uttarakhand.
2. Shri Samrat Sharma,
94, Purvawali Ganeshpur,
Roorkee-247667.