

# CENTRAL INFORMATION COMMISSION

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

**Prof. M. Sridhar Acharyulu (Madabhushi Sridhar)**

Information Commissioner

**CIC/SA/C/2015/000157**

**Sumit Vs. Chief Election Officer**

## **ORDER**

Important Dates and time taken:

Show cause hearing fixed on 14-09-15 at 2.30 pm	<b>Hearing:</b> 04-08-2015	<b>Decision:</b> 13-08-2015
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**Summary:** The voter has a right to know, first that his name was deleted, then the reasons for decision to delete his name from the voter's list. Such an arbitrary deletion and denial of information even after deletion, followed by non-response to RTI request for reasons for that deletion would certainly amount to denial of a very significant Constitutional & statutory right to vote and right to information under RTI Act.

Principles of Natural Justice, Section 22 of Representation of People Act 1950, Section 21A of the Registration of Electors Rules, 1960 and the ratio in landmark judgment of Justice L Narasimha Reddy of Andhra Pradesh High Court demand that a valid voter is expected to get adequate opportunity of being heard by the authority before deletion of name of voter. The Commission records its appreciation for appellant, the young boy for his anguish at the unjust denial of opportunity to cast his vote in recent Assembly elections in Delhi, showing greater concern for the right to vote and choosing the path of RTI to seek the reasons and restoration of right lost. In fact, he was performing his duty as alert citizen of this democratic country to secure his most valuable right, i.e., right to vote.

The Commission directs CPIO of the Public Authority (Chief Election Officer) to show cause why penalty should not be imposed for not furnishing the information to the complainant within the prescribed period, to inform appellant the reasons for deletion of his name from the voter's list, to inform if any inquiry was conducted into such deletion after deletion, if not to conduct an inquiry into arbitrary deletion of his name, to inform what action was proposed to be taken against officer responsible for deleting his name, to inform when his name and right to vote will be restored, to prepare a set of guidelines to follow before deleting names, to inform fact of proposed deletion, grounds for such action of deletion, and provision of adequate opportunity to affected voter to represent his case etc, and post the same on official website, along with FAQs on the subject, and to pay **Rs 10,000/- compensation** on the grounds that appellant was not informed about deletion, not informed about the grounds/reasons for deletion which amounted to violation of right, and he was not given any

response to his RTI application within 30 days as stipulated by RTI Act.

This Commission in its hearing on 17-7-2015 passed the following order on 29-7-2015:

**“Parties Present:**

The Complainant is present. The Public Authority is not represented.

**Facts:**

2. The Complainant by his RTI application had sought information regarding exclusion of his name in the voters list. He wanted to know the procedure by which the name can be excluded, can a person be excluded from the voter list even when he has resided in the same address previously when he voted etc. Claiming non-furnishing of information, complainant approached the Commission.

**Contentions & Decision:**

3. The Complainant made his submissions. The Public Authority is not present. The complainant submitted that he was a valid voter duly registered and listed in the voters' list. He had exercised his franchise during the elections for 2013 Delhi Assembly Elections, 2014-Lok Sabha Elections, as his name was figuring in the voters list of the Assembly Constituency No.11-Nangloi, Delhi. To his surprise he could not find his name in the list, when he went to polling booth to cast his vote in the recent Delhi Assembly Elections in February, 2015. He, therefore, filed an RTI applications seeking the reasons for deleting his name from the voters' list, even though **he was residing at the same address**. But he was not provided with any reply so far and hence he approached the Commission. The complainant alleged that his name was deliberately deleted from the voters' list by the vested interests, leading to denial of his right to vote. There is none from the Chief Election Officer to explain their case about the deletion of name of appellant from voter's list.

4. Indian Constitution - Part XV-Elections, under **Article 325** says: *No person to be ineligible for inclusion in, or to claim to be included in a special, electoral roll on grounds of religion, race, caste or sex*. This Article supports the preparation of one general electoral roll for each constituency, for election to both the houses of Parliament.

5. **Article 326** says: Elections to the House of the People and to the Legislative Assemblies of States to be on the basis of Adult Suffrage.

6. Every citizen who is above 18 years of age has a right to vote. This is called Adult Suffrage. This provision is made with the vision of maximum participation and providing an opportunity to the youth to select their leaders. When a citizen casts his vote, he is expressing his opinion or consent in favour of one candidate among several, to represent him and act on his behalf. Hence this right also falls under the scope of right to freedom of speech and expression in Article 19(1)(a) of Indian

Constitution and Article 19(1) and (2) of the International Covenant on Civil and Political Rights can be made in his regard.

7. Thus **Article 326** guarantees the right to vote to every citizen above the age of 18. In addition Section 62 of the Representation of Peoples Act (RoPA), 1951 states that every person who is in the electoral roll of that constituency will be entitled to vote. Thus, the Constitution and the RoPA make it clear that every individual above the age of 18, whose name is in the electoral rolls, and does not attract any of the disqualifications under the Act, may cast his vote. This is a non discriminatory, voluntary system of voting.

8. The word "elector" has been defined in Section 2(e) of the RP Act, 1951 which reads as under:

" 'elector' in relation to a constituency means a person whose name is entered in the electoral roll of that constituency for the time being in force and who is not subject to any of the disqualifications mentioned in section 16 of the Representation of the People Act, 1950 (43 of 1950)."

The applicant in this case is the 'elector' as he was duly included in voter's list.

9. **Section 16 of the RP Act**, 1950, which has been referred to in the above-quoted definition of the word "elector" reads as under:

"16. Disqualifications for registration in an electoral roll. (1) A person shall be disqualified for registration in an electoral roll if he is not a citizen of India; or is of unsound mind and stands so declared by a competent court; or is for the time being disqualified from voting under the provisions of any law relating to corrupt practices and other offences in connection with elections.

(2) The name of any person who becomes so disqualified after registration shall forthwith be struck off the electoral roll in which it is included:

Provided that the name of any person struck off the electoral roll of a constituency by reason of a disqualification under clause (c) of sub- section (1) shall forthwith be reinstated in that roll if such disqualification is, during the period such roll is in force, removed under any law authorizing such removal."

10. **Section 19 of the RP Act**, 1950 relates to the "conditions of registration". It provides as under:

"**19. Conditions of registration.** Subject to the foregoing provisions of this Part, every person who-is not less than [eighteen years] of age on the qualifying date, and is ordinarily resident in a constituency, shall be entitled to be registered in the electoral roll for that constituency."

"20. Meaning of 'ordinarily resident'. (1) A person shall not be deemed to be ordinarily resident in a constituency on the ground only that he owns; or is in possession of, a dwelling house therein.

(1A) A person absenting himself temporarily from his place of ordinary residence shall not by reason thereof cease to be ordinarily resident therein.

(1B) A member of Parliament or of the Legislature of a State shall not during the term of his office cease to be ordinarily resident in the constituency in the electoral roll of which he is registered as an elector at the time of his election as such member, by reason of his absence from that constituency in connection with his duties as such member.

(2) A person who is a patient in any establishment maintained wholly or mainly for the reception and treatment of persons suffering from mental illness or mental defectiveness, or who is detained in prison or other legal custody at any place, shall not by reason thereof be deemed to be ordinarily resident therein.

(3) Any person having a service qualification shall be deemed to be ordinarily resident on any date in the constituency in which, but for his having such service qualification, he would have been ordinarily resident on that date.

(4) Any person holding any office in India declared by the President in consultation with the Election Commission to be an office to which the provisions of this sub-section apply, shall be deemed to be ordinarily resident on any date in the constituency in which, but for the holding of any such office, he would have been ordinarily resident on that date.

(5) The statement of any such person as is referred to in sub-section (3) or sub-section (4) made in the prescribed form and verified in the prescribed manner, that [but for his having the service qualification] or but for his holding any such office as is referred to in sub-section (4) he would have been ordinarily resident in a specified place on any date, shall, in the absence of evidence to the contrary, be accepted as correct.

(6) The wife of any such person as is referred to in sub-section (3) or sub-section (4) shall if she be ordinarily residing with such person be deemed to be ordinarily resident on in the constituency specified by such person under sub-section (5).

(7) If in any case a question arises as to where a person is ordinarily resident at any relevant time, the question shall be determined with reference to all the facts of the case and to such rules as may be made in this behalf by the Central Government in consultation with the Election Commission.

(8) In sub-sections (3) and (5) "service qualification" means-being a member of the armed forces of the Union; or being a member of a force to which the provisions of the Army Act, 1950 (46 of 1950), have been made applicable whether with or without modifications; or being a member of an armed police force of a State, who is serving outside that State; or being a person who is employed under the Government of India, in a post outside India.

11. All the above provisions of law have to be read together and the conjoint effect thereof is that a person in order to qualify to be registered as an elector in relation to a constituency, besides fulfilling other qualifications, must be a citizen of India, not less than 18 years of age on the qualifying date (which by virtue of Section 14 of RoPAct, 1950, means the first day of January of the year in which the electoral list of the constituency is prepared or revised), and, what is significant here, be "ordinarily resident" in that constituency.

12. The Hon'ble Supreme Court said in **Jyoti Basu v. Debi Ghosal**, [(1982) 1 SCC 691]:

"A right to elect, fundamental though it is to democracy, is, anomalously enough, neither a fundamental right nor a common law right. It is pure and simple, a statutory right".

13. The Hon'ble Supreme Court, in **PUCL v. Union of India**, in a landmark judgment in September, 2013 upheld the constitutional right of citizens to cast a negative vote in elections. And in Paragraph 52 said:

*"No doubt, the right to vote is a statutory right but it is equally vital to recollect that this statutory right is the essence of democracy. Without this, democracy will fail to thrive. Therefore, even if the right to vote is statutory, the significance attached with the right is massive. Thus, it is necessary to keep in mind these facets while deciding the issue at hand."*

14. In **Ashby v White**, (1703) 92 ER 126, Mr. Ashby was prevented from voting at an election by the misfeasance of a constable, Mr. White, on the apparent pretext that he was not a settled inhabitant. At the time, the case attracted considerable national interest, and debates in Parliament. It was later known as the Aylesbury election case. In the House of Lords, it attracted the interest of Peter King, 1st Baron King who spoke and maintained the right of electors to have a remedy at common law for denial of their votes, against Tory insistence on the privileges of the House of Commons. Sir Thomas Powys defended William White in the House of Lords. The argument submitted was that the Commons alone had the power to determine election cases, not the courts. Lord Holt Chief Justice was dissenting from the judgment in the Court of King's Bench, but his dissent was upheld by the House of Lords by a vote of fifty to sixteen. Classic statement that emerged is:

**If the plaintiff has a right, he must of necessity have a means to vindicate and maintain it, and a remedy if he is injured in the exercise or enjoyment of it, and, indeed it is a vain thing to imagine a right without a remedy; for want of right and want of remedy are reciprocal.** ([https://en.wikipedia.org/wiki/Ashby\\_v\\_White](https://en.wikipedia.org/wiki/Ashby_v_White)).

15. This is most significant judgment laid down a principle that once a recognized right is violated, there must be a remedy. The Court held in this case that

**Every injury imports a damage; though it does not cost the party one farthing, and it is impossible to prove the contrary; for a damage is not merely pecuniary, but an injury imports a damage, when a man is thereby hindered of his right. As in an action for slanderous words, though a man does not lose a penny by reason of the speaking them, yet he shall have an action. So if a man gives another a cuff on the ear, though it costs him nothing, not so much as a little diachylon (plaster), yet he shall have his action, for it is personal injury. So a man shall have an action against another for riding over his ground, though it does him no damage; for it is an invasion of his property and the other has no right to come there.** (<http://www.gktoday.in/answer/what-was-held-in-the-case-of-ashby-v-white-in-regard-to-damages/>)

16. In ***Municipal Board Vs. Ashrafial*** (1922, ILR 44 All 202) a voter's name was wrongfully omitted from the voters list. This prevented him from casting vote. It was held that he suffered a legal wrong for which an action in tort would lie. In ***Ashrafial v Municipal Board of Agra*** <http://indiankanoon.org/doc/1143315/>, the Allahabad High Court Judges Walsh and Stuart, reiterated the principle of providing a legal remedy if recognized right to vote was wrongfully denied, and said:

We would merely say this by way of preface that, in our opinion, the law in India upon the questions raised is the same as the law in England, and the Common Law of England provides that if any duly qualified citizen, or burgher, or person entitled to be upon the electoral roll of any constituency is omitted from such roll so as to be deprived of his right to vote, and so as to give the returning officer an adequate ground for refusing him the right to vote on election day when the matter has to be decided summarily, and that refusal or omission from the roll, as the case may be, turns out on investigation to be wrongful, he has suffered a legal wrong; he has been deprived of a right recognized by law and he has against the person so depriving him a remedy by what has always been called "an action on the case" for nominal damages for the right that he has lost, which may at the discretion of the court be punitive or exemplary if the conduct is the result of some malicious and wicked intention; and also for any pecuniary expenses to which he may have been reasonably put as a result of the wrong done, for example, efforts to replace his name on the roll.

17. This order in 1922 entitled a voter in India to a remedy of compensation if that was breached.

18. This right to vote has been provided in India by **Section 62** of RP Act, saying, he will get right to vote only if his name is found in voter's list. Representation of People Act, 1951, Section 62 dealing with Right to vote says:

(1) No person who is not, and except as expressly provided by this Act, every person who is, for the time being entered in the electoral roll of any constituency shall be entitled to vote in that constituency.

(2) No person shall vote at an election in any constituency if he is subject to any of the disqualifications referred to in section 16 of the Representation of the People Act, 1950 (43 of 1950).

(3) No person shall vote at a general election in more than one constituency of the same class, and if a person votes in more than one such constituency, his votes in all such constituencies shall be void.

(4) No person shall at any election vote in the same constituency more than once, notwithstanding that his name may have been registered in the electoral roll for that constituency more than once, and if he does so vote, all his votes in that constituency shall be void.

### **The Issue**

19. The issue before the Commission is: what is the duty of the public authority regarding deletion from voter's list and whether a deleted voter can demand compensation if the name of eligible voter is deleted from the list wrongfully?

### **Fight for right to vote**

20. Here is the case of complainant, a young boy, who cast his vote in Assembly elections in 2013 and Parliament Elections 2014, could not exercise the same in 2015 Assembly Elections in Delhi, due to deletion of his name from the list without notice though he was residing in same address. He was not even informed that his name was deleted from the list. There was no communication from the Election Office to appellants explaining the reasons for deletion, because of this non-communication the complainant lost his pre-existing statutory right to vote, which is fundamental in democracy. Thus he was denied his right.

21. The Public Authority of Chief Election Office has **two kinds of duties** under two different capacities. **First duty:** Under Principles of Natural Justice, the office or officer which intend to delete the name of a valid voter from the voter's list has to inform such voter their intended action, reasons for the same and provide a reasonable opportunity to defend his voting right. Any order without following these principles of natural justice, cannot be considered as valid order. Thus CEO had a duty to justify the deletion even before the voter approached through RTI Act.

22. **Second duty:** The Public Authority has to respond to an applicant who filed RTI request to know the reasons for deletion of his name. As the CPIO was not present and RTI application was not responded, the version of public authority about any communication to the complainant before deleting his name is not available. From the record made available to the Commission it is clear that there was no response to RTI request. Thus two duties appears to have been breached.

#### **Deletion from voter's list**

23. The Representation of the People Act, 1950 and the Rules made there under prescribe a detailed procedure for preparation and revision of voters' list. A valid voters' list constitutes the actual basis for the democratic process. That is the reason why the RoPAct provides for effective machinery at various stages for proper verification of the claims of the persons for inclusion in or deletion from the voters' list. While Section 21 of the Act provides for preparation and revision of electoral rolls in general, Section 22 prescribes the procedure for deletion of names, which are already present in the list. Section 23 of the Act provides for inclusion of names in the existing electoral rolls. Section 22 of Representation of People Act 1950 clearly stated that giving reasonable opportunity is mandatory.

**Section 22. Correction of entries in electoral rolls.**—If the electoral registration officer for a constituency, on application made to him or on his own motion, is satisfied after such inquiry as he thinks fit, that any entry in the electoral roll of the constituency-

- (a) is erroneous or defective in any particular,
- (b) should be transposed to another place in the roll on the ground that the person concerned has changed his place of ordinary residence within the constituency, or
- (c) should be deleted on the ground that the person concerned is dead or has ceased to be ordinarily resident in the constituency or is otherwise not entitled to be registered in that roll, the electoral registration officer shall, subject to such general or special directions, if any, as may be given by the Election Commission in this behalf, amend, transpose or delete the entry:

Provided that before taking any action on any ground under clause (a) or clause (b) or any action under clause (c) on the ground that the person concerned has ceased to be ordinarily resident in the constituency or that he is otherwise not entitled to be registered in the electoral roll of that constituency, **the electoral registration officer**

***shall give the person concerned a reasonable opportunity of being heard in respect of the action proposed to be taken in relation to him.***

24. The Registration of Electors Rules, 1960, Section 21A which was added in 1987, more specifically reiterated the duty to provide reasonable opportunity to the affected voter before the deletion. It says:

**Rule 21A, Deletion of names.**—If it appears to the registration officer at any time before the final publication of the roll that owing to inadvertence or error or otherwise, the names of dead persons or of persons who have ceased to be, or are not, ordinarily residents in the constituency or of persons who are otherwise not entitled to be registered in that roll, have been included in the roll and that remedial action should be taken under this rule, the registration officer, shall—

(a) ***prepare a list of the names and other details of such electors;***

(b) ***exhibit on the notice board of his office a copy of the list together with a notice*** as to the time and place at which the question of deletion of these names from the roll will be considered, and also publish the list and the notice in such other manner as he may think fit; and

(c) after considering any verbal or written objections that may be preferred, decide whether all or any of the names should be deleted from the roll: Provided that before taking any action under this rule in respect of **any person** on the ground that he has ceased to be, or is not, ordinarily resident in the constituency, or is otherwise not entitled to be registered in that roll, the registration officer shall make every endeavour **to give him a reasonable opportunity** to show cause why the action proposed should not be taken in relation to him.

Through this rule CEO is entrusted with duty to prepare and publish a list of deletions proposed, notice about inquiry and to give reasonable opportunity to defend, before ordering deletion.

### **Landmark Judgment**

25. AP High Court gave a landmark judgment in 2009 stating that in case of deletion of name of individual from electoral rolls concerned person should be given reasonable opportunity of being heard and on merely issuing notice stipulating date of inquiry cannot be said to be reasonable opportunity.

26. In ***Smt Darla Rama Devi & others v. Government of Andhra Pradesh & Ors***, AIR 2009 (NOC) 1555 (AP) in writ petition nu. 619 of 2009 decided on 25.2.2009, some names of voters from Kandukuru Assembly Constituency in Andhra Pradesh were removed in December 2008 while revising and updating of the voter's list on the ground that they are not ordinary residents of the village. Those voters asserted that they are natives and ordinary residents of the village and the mere fact that they go out for some time to eke out their livelihood cannot be a ground to delete their names. The Electoral Registration Officer, caused necessary enquiry and issued notices to the petitioners, before their names were deleted. According to them, the service of notice was effected through substituted means, since the petitioners were not available. They contended that they were very much residents of the village and that their names were included in the voters' list, on being satisfied about their residence, the Officials have deleted their names, without following the procedure prescribed by law. Counsel for Government submitted that that door-to-door verification was caused and on finding

that the petitioners are not ordinary residents, substituted service of notices was effected. During revision of voter's list Gram Sabhas were conducted. On noticing that the petitioner voters are not local residents, notices dated 23.12.2008 were said to have been issued proposing to conduct enquiry to have been issued, proposing to conduct the enquiry on 26.12.2008. on 31<sup>st</sup> December 2008 individual orders directing deletion of the names of the petitioner voters were passed.

27. In the above case, Mr. Justice L. Narasimha Reddy said: The deletion of the name of an individual from electoral rolls visits him with serious consequences. For all practical purposes, he is excluded from the democratic process and is denied of any role in the election process. That is the reason why Section 22 of the Act itself mandates that the concerned person shall be given "reasonable opportunity of being heard". Justice Reddy held "issuing notice on 23.12.2008 stipulating the date of enquiry as '26.12.2008' by no means can be said to be a reasonable opportunity. The Electoral Registration Officer ought to have ensured that the affected persons are put on notice. This Court is satisfied that the respondents did not give the petitioners adequate opportunity. The objections raised by the petitioners on 06.01.2009 are said to have not been considered". Justice Narasimha Reddy has set aside the deletion orders and Electoral Registration Officer was directed to give opportunity of being heard to the petitioners on a fixed date and take appropriate action in accordance with law. [[http://judis.nic.in/judis\\_andhra/qrydisp.aspx?filename=6347](http://judis.nic.in/judis_andhra/qrydisp.aspx?filename=6347)]

28. In ***Bashir Adamji Adat vs State Of Gujarat And Ors***, decided on 13 June, 2007, AIR 2007 Guj 161, (2007) 2 GLR 1820, the Bench of M Shah, H Antani, JJ dealing with the issue of deletion of 597 names from the list of voters found that no notices were issued to any of them and thus the deletion would be illegal being in violation of Section 22 of RoP Act, 1950, and authorities were directed to hold elections on basis of list of voters published prior to the deletion.

29. Surprisingly the public authority, in this case the Chief Election Officer appears to have no mechanism to inform the concerned voter about deletion of the name of the voter from the electoral list. Drafting and sending notices to each and every individual voter about their decision to delete might involve huge work, as there will be huge numbers. Compared to total number voters, the number of voters to be deleted will be surely very small. The principles of natural justice demand the public authority to inform the concerned persons before depriving their right to vote, which is very fundamental to democracy, though not a declared fundamental right under Part III of the Constitution. This right has found place in the Constitution of India, hence it is a Constitutional right. Since it has been recognized, provided and safeguarded for by the Representation of People Act 1950, it is also a significant statutory right.

30. The Commission understands that public authority has initiated several campaigns to increase the enrolment of voters etc. As no representative was present, the Commission perused their website to know the public notifications to facilitate the corrections: <http://ceodelhi.gov.in/Content/ElectoralRoll.aspx>, but found nothing about process of deletion of the voter from the list. In seventeen manuals disclosed under Section 4(1)(b) of RTI Act, the CEO, Delhi in <http://ceodelhi.gov.in/WriteReadData/17Manuals/MANUAL5.pdf> provided list of deleted names in their official website at the weblink:

<http://ceodelhi.gov.in/OnlineErms/SuplimentryONEDeletion.aspx>. It contains Assembly Constituency wise names of voters deleted during special summary revision 2015. There is also a search enabled icon through which one can suo moto delete his name. However, they did not provide for the process adopted by their office regarding the deletion of names of voters from voter's list or what has to be done by the voter whose name has been deleted for restoration. There appears that they do not have any format of providing notice or information to the voter before deletion, or remedy for such deletion etc. Though the site is dynamic, provides several search icons, the deleted voter does not get any guidance as to why his name is deleted or what he has to do for correction or re-inclusion. Perhaps he has to start again like a fresh applicant.

31. But the case on hand is totally different. Appellant is a duly registered voter who exercised right twice. The public authority did not inform this voter about the decision to delete or reasons to delete his name, he was not allowed to represent injustice in denial of voting right. When he approached the public authority for the information under RTI Act, the Chief Election Office was silent for 30 days from the date of receipt of the RTI Application, which amounts to denial of information. Mr. Sunil approached the Commission praying penal action against the PIO of public authority and direction to provide information why his name was deleted from the Voter's list. He also sought compensation.

32. The validity of appellants right to vote was proved when his name was duly registered after his residence is ascertained and got confirmed when he cast vote twice within span of two years, Its deletion without any information whatsoever to that voter will become an arbitrary and wrongful decision by the public authority, resulting in deprivation of a constitutional and statutory right. Such an act is against the principles natural justice & the principles of transparent governance & accountability. Besides, the PIO of public authority appears to have not shown any concern for the RTI application regarding deletion, nor to the hearing notice from CIC. Apart from above legal provisions, even under principles of natural justice, the voter has a right to know, first that his name was deleted, then the reasons for decision to delete his name from the voter's list. Such an arbitrary deletion and denial of information even after deletion, followed by non-response to RTI request for reasons for that deletion, would certainly amount to denial of a very significant Constitutional & statutory right to vote and right to information under RTI Act. This right of the appellant in this case was duly recognized and well established by law, rules and actions such as issuance of voter card, exercise of the right twice in recent times. He has natural right to know about deletion and reasons for the deletion, whether prescribed by the written text of law or rules or not. Proviso to Section 22 of RP Act 1950 read with Section 21A of the Registration of Electors Rules, 1960 provided right to information to the voter. This is also the right to information as per definition under Section 2(f) of RTI Act, 2005. Had appellant given a chance to appear, he could have proved that he did not change the residence and avoid exclusion.

33. The Commission finds the merit in the contention of the complainant, that his right to vote was violated. He prayed the Commission to direct the PIO to a) provide reasons for deletion, b) restore right to vote, c) to cause inquiry into such deletion, d) inform action taken against the responsible officer and e) provide remedy for breach of

right (i.e., compensation). These are legally valid claims. Such deletion of voter from list without informing the reasons would seriously affect the democratic operation prescribed by the Constitution and Representation of People Act, 1950 which is the foundation of governance as per rule of law. Appellant is surely entitled to compensation under law for reasons discussed above. Not only the appellant, each voter whose valid voting right is violated by arbitrary decision of the officer without communicating reasons and giving an opportunity to represent why his name should not be removed, is entitled to such compensation if he was not allowed to vote on that ground, and restoration of voting rights within reasonable time. Principles of Natural Justice, Section 22 of Representation of People Act 1950, Section 21A of the Registration of Electors Rules, 1960 and the ratio in 2009 judgment of Andhra Pradesh High Court demand that a valid voter is expected to be given adequate opportunity of being heard by the authority before deletion of name of voter. The Commission records its appreciation for appellant, the young boy for his anguish at the unjust denial of opportunity to cast his vote in recent Assembly elections in Delhi, showing greater concern for the right to vote and choosing the path of RTI to seek the reasons and restoration of right lost. In fact, he was performing his duty as alert citizen of this democratic country to secure his most valuable right, i.e., right to vote.

34. The Commission directs CPIO of Public Authority (Chief Election Officer)
- a) to show cause why penalty should not be imposed for not furnishing the information to the complainant within the prescribed period,
  - b) to inform appellant the reasons for deletion of his name from the voter's list,
  - c) to inform if any inquiry was conducted into such deletion after deletion, if not
  - d) to conduct an inquiry into arbitrary deletion of his name,
  - e) to inform what action was proposed to be taken against officer responsible for deleting his name,
  - f) to inform when his name will be included in the list and right to vote will be restored,
  - g) to prepare a set of guidelines to follow before deleting names, to inform fact of proposed deletion, grounds for such action of deletion, and provision of adequate opportunity to affected voter to represent his case etc, and post the same on official website, along with FAQs on the subject, and
  - h) to pay **compensation of Rs 10,000/-** on the grounds that appellant was not informed about deletion, not informed about the grounds/reasons for deletion which amounted to violation of right, and he was not given any response to his RTI application within 30 days as stipulated by RTI Act.

35. The CPIO is expected to comply with above orders and report the same, along with his explanation to reach the Commission within 21 days from the date of receipt of this order.

36. The Commission orders accordingly."

## **DECISION:**

2. Mr. Satyendra Singh Dursawat, SDM(Punjabi Bagh)/PIO appeared before the Commission today and sought hearing of the Commission as the above order has come in the media and prayed the Commission to hear him. He submitted that the Commission's hearing

notice was received by the Head Office on 20-7-2015, that is after the date of hearing on 17-7-2015. He also submitted that the appellant Mr. Sumit was duly served a notice before removal of his name from the electoral rolls. But the said notice was returned back with the remark that the addressee was not residing there. Therefore, as per the practice, the said notice was pasted on the door of the available address of the appellant. The RTI filed by the respondent was replied and the letter sent by speed post on 20-5-2015, which was also returned back with the same remark. Based on these facts, the PIO/SDM(PB) requested the Commission to summon the appellant for hearing. Accordingly, the Commission adjourns the case to **14-9-2015 at 2.30 PM** and both the parties are directed to be present before the Commission on the said date and time with all the records. Adjourned.

(M. Sridhar Acharyulu)  
Information Commissioner

Authenticated true copy

(Babu Lal)  
Deputy Registrar.

Address of the parties :

1. The PIO under RTI Act, Govt. of Delhi  
Chief Election Officer/District Magistrate (West), Old  
Middle School Building, Rampura, Delhi-110035

2 . Dr. Satyendra Singh Dursawat, IAS,  
Sub-Divisional Magistrate (Punjabi Bagh)  
Government of NCT of Delhi  
Main Rohtak Road, Nangloi, Delhi-110041

3 . Shri Sumit  
630/1, B-Block, Chandan Vihar,  
Nihar Vihar, Nangloi, Delhi-110041