

# 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, GNCTD**

**Hearing of Show Cause Notice**

Important Dates and time taken:

Show cause/compensation withdrawn	<b>Hearing:</b> 14-09-2015	<b>Decision:</b> 23-09-2015
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PARTIES PRESENT:

The Complainant is present. The Public authority is represented by Mr. Satyendra Singh Durswat,SDM(PB)/PIO, Mr. Harish Prasad Pant, Mr. Anesh Yadav, AERO.

## **FACTS**

2. This Commission in its hearing on 17-7-2015 passed the following order on 29-7-2015 holding that -

“ .....

.....

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 who's 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 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.

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.”

3. In its hearing on 4-8-2015, the Commission passed the following order dated 13-8-2015, as under:-

“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.”

#### **DECISION:**

4. In response to the above Show cause notice, the PIO/SDM/ERO Mr. Satyendra Singh Dursawat appeared before the Commission along with his officers and made oral and written submissions a copy of which was provided to the Complainant during hearing. The PIO submitted that the RTI application dated 17-2-2015 from the Complainant was received by them without the requisite fee/IPO. In spite of this defect, the said application was treated as RTI application and reply was sent to the Complainant within the prescribed period. Actually, this RTI application which was initially addressed to the CEO/DM(West) was received by him on 24-2-2015 along with a forwarding letter by DM office, a copy of which was also sent to the complainant. But the letter addressed to the complainant was received back with the comments of the Postal Department on the envelope that “Addressee not residing”. The said envelope was shown to the Commissioner during hearing. As per the rules of the Representation of People’s Act, they had sent notice to the complainant on 15-12-2014, before removing his name from the voters’ list. The said notice has come back with the same remarks that he is not residing at the given address. As per the practice, the concerned Booth Level Officer (BLO) had personally gone to the said address and as he had found the door locked, he pasted the notice on the door. The Complainant was also called for hearing on 23-12-2014, but he never turned up. Before the onset of Delhi Assembly Elections in February, 2015, a Purification Drive of Electoral Rolls was undertaken by the Delhi Administration as per the directions of the Supreme Court. A wide publicity was given in the Media, TV, etc requesting the voters to verify their names in the revised Electoral rolls available at every nearby Polling Station. The Department has also deployed the people to do door-to-door survey and the voters were given Form No.6, to submit before the last date, in case they did

not find the names in the revised electoral rolls. The PIO has shown all these papers to the Commission to strengthen their submission that the name of the complainant has been removed from the electoral rolls, in accordance with the procedure, and the same was intimated to the complainant at his given address.

5. The PIO further submitted that after they came to know about the Hon'ble Commission's order dated 29-7-2015, through the media and issuing of the show cause notice to the PIO and granting compensation to the complainant, he met the Hon'ble Commission on 4-8-2015 and with the kind permission of the Commission, he briefed the Commissioner and submitted that he could not attend the hearing of the Commission held on 17-7-2015, due to late receipt of the Hearing Notice after the hearing. In the meanwhile, his officer, Mr. Anish Yadav, AERO visited the house of the complainant at the given address on 31-7-2015 at 2.30 pm. The house was locked. Again on the same day, he visited the house at 8.45 pm purposely to see whether the complainant is residing there. But the complainant was not found in the house. On 10-8-2015, the said officer Mr. Anish Yadav again visited the premises of the Complainant two times – one during day time and again late in the night at 10.30 PM. The complainant was not found and his brother Mr. Amit was spoken. Form No.6 was given to Mr. Amit asking him to give to the complainant, if he is residing there and wants his name to be included in the electoral rolls. When the Commission asked the complainant, about these facts, the Commission noticed that the complainant was hesitating to admit the facts. The Commission contacted his brother Amit on mobile number given by the complainant, i.e. 9990499935 during hearing. His brother Amit admitted that Mr. Anish Yadav, AERO visited their house on 10-8-2015 at 10.30 pm.

6. In view of the facts and evidence submitted by the PIO, the Commission is convinced that he made sincere attempts to reach to the appellant both under the Representation of the People Act and Rules, and under the RTI Act, to give notice to him of the imminent deletion of his name from the voters' list and also to provide response to his RTI application. The appellant's brother admitted the personal visit of the officers from the Public Authority to his

house. Hence the appellant's contentions that there was no response from the officers to his RTI application and that he was neither given a notice of deletion of his name from the voters' list nor provided an opportunity to defend his case, were not correct. The appellant chose to use the absence of officers of Public Authority during the previous hearing on 17-7-2015 and misled the Commission. Believing him, the Commission awarded the compensation of Rs.10,000/- to the appellant, as his right to exercise his vote was violated by the breach of principles of natural justice. As the respondent authority established the fact of giving notice and an opportunity to hear the appellant, the basis of granting compensation has been totally lost. Hence the compensation awarded to the appellant has to be withdrawn as he does not deserve the same. However, the principle on which the Commission's order dated 29-7-2015 was issued, remains as it was, i.e., as per Section 22 of the Representation of the People Act, the name of a voter cannot be deleted from the voters' list without giving him notice and without providing sufficient opportunity to defend himself. In Smt.Darla Rama Devi & ors Vs. Govt of AP, Justice Narasimha Reddy said that 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. If for such reason, a voter could not exercise his franchise, it would amount to violation of right to vote and such voter will be entitled to compensation.

7. In view of the above facts and evidence submitted by the PIO and in view of the complainant's hesitation to admit these undeniable facts, the Commission considers that the complainant had made wrong submissions during Commission's hearing on 17-7-2015, which resulted in Commission issuing order dated 29-7-2015. Therefore, the Commission drops the Show cause notice against the PIO and the compensation granted to the complainant is withdrawn.

The complaint is closed.

(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