

Property details of IAS, KAS officers privacy invasion?

SIC To Decide On RTI Application As GAD Denies Information

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Srinagar, Mar 15: Do the property details of the Indian Administrative Service (IAS) and Kashmir Administrative Service (KAS) officers fall under the purview of 'personal information' or 'invasion of privacy'? That is the question the State Information Commission (SIC) is likely to discuss in the wake of the General Administration Department's refusal to divulge the information sought under the Right to Information Act.

'CONFIDENTIAL INFORMATION':

In response to an RTI application seeking details of the annual property statements of the IAS and KAS officers in Jammu and Kashmir, the GAD has cited that this information cannot be provided as the same is expected under section 8

(f) and (i) of the Right to Information Act, 2009.

"Section 8 (i) of the RTI Act, 2009, inter alia provides that the information which relates to the personal information, disclosure of which would have no relationship to any public activity or interest or which would cause unwarranted invasion of privacy of the individual cannot be disclosed unless the Public Information Officer or the appellate authority is satisfied that the larger public interest justifies the disclosure of such information," the GAD order, issued on February 10, 2011, reads. "The information being sought by the appellant about the property statements of IAS/KAS officers of the J&K State being

confidential, the disclosure of which would cause unwarranted invasion of the privacy of the individuals, besides, the supply of the information to the appellant shall not serve larger public interest and has no relationship to any public activity."

Therefore, the order mentions, the appeal filed by the appellant is disallowed as being without any merit. The GAD order comes in response to an appeal filed by Dr Raja Muzaffar Bhat,

➔ See Property details of IAS, KAS...on Pg-10

SPOTLIGHT

Property details...

convener of the J&K RTI Movement, before the GAD's appellate authority after its Public Information Officer denied the information citing RTI provisions.

Bhat had filed the application with the PIO on 4 April 2010. The PIO replied after two months on 23 June, which is a violation of the RTI Act.

Apart from the annual property statements, Bhat had also sought information as to how many of the IAS and KAS officers had been submitting such statements regularly, with details dating back to the past 10 years.

In reply, the GAD, according to documents available with Greater Kashmir, has only submitted "list of IAS/KAS officers who have submitted their annual property returns of last three years" while denied rest of the information citing the RTI provisions.

COUNTER-POINT:

In his arguments, Bhat mentions that section 8(f) of the J&K RTI Act 2009 says that the information which would endanger the life or physical safety of a person cannot be provided. "But how can mere providing of information about the annual property statements or assets of IAS or KAS officers be a threat to their life and property?" he questions. "Moreover, section 8(i) relates to personal information and which would cause unwarranted invasion of the privacy of the individual. But an IAS or KAS officer is a public servant and people who are the tax payers have full right to know about the assets of the government officers as the tax payers money is being paid to government officers, including IAS and KAS officers, in the form of their monthly salary."

JUDGES DECLARE ASSETS:

The issue is also raising a discussion in the backdrop of declaration of assets by the judges of the Jammu and Kashmir High Court recently.

In September 2010, the judges declared their assets for the first time in response to an RTI application. On April 17, Bhat had sought details of the assets of the judges. On May 29, a full court meeting was convened and on July 23 a resolution to declare the assets adopted.

'SIC TO DECIDE':

Bhat has now decided to file a second appeal before the State Information Commission to let it decide the fate of the application. "I am ready with the second appeal which I shall make before the SIC," Bhat told *Greater Kashmir*.

EXPERTS SPEAK

According to RTI activists, it is a prickly issue. "While many citizens would like IAS, IPS and state services officers to make their assets public the officers themselves are resisting it. Two points must be noted here. First according to the Supreme Court decision in two cases of 2002 and 2003 (ADR v Union of India and PUCL v Union of India) all candidates at elections to state legislatures and Parliament are required to declare their assets and liabilities. Candidates contesting elections to the office of the President or Vice-President of India must also declare their assets before the elections. All these affidavits are displayed publicly by the Election Commission of India so that people may know what kind of candidates they are required to choose from," says Venkatesh Nayak, Coordinator at the Commonwealth Human Rights Initiative (CHRI).

Elaborating, he said: "Several states have made this requirement compulsory for panchayat and municipality elections. Given this transparency obligation for public servants who are elected by the people, the resistance to similar disclosure from the career bureaucrats becomes less and less justifiable. If assets disclosure is an eligibility condition for people to fight elections there is not enough good reason to treat career bureaucrats by another yard stick."

Venkatesh believes that the assets-related information is personal information indeed. "But does a public servant have the same degree of protection for such information as a private citizen? The Delhi High Court seems to think differently. In the two celebrated cases relating to assets of judges of the Supreme Court and High Courts delivered in 2009 and 2010, the Delhi High Court ruled that the degree of protection for assets-related information of public servants is less than that which is available for private citizens. Under the Civil Service Conduct Rules public servants have to mandatorily declare their assets and liabilities every year. However these declarations are treated as confidential disclosures and are not subject to public scrutiny," he told *Greater Kashmir*.

He said: "Corruption is endemic in Indian society. It manifests itself more in people's dealings with the bureaucracy than anywhere else. Therefore people have a right to know if a bureaucrat is leading a life of integrity as is expected of him/her in the Service Rules. If not there must be a way of holding the corrupt accountable. Making public disclosure of the assets of bureaucrats is the first step in this direction."

He said the Income tax returns of ordinary citizens should also be in the public domain as citizens have the right to know if ever.