

केन्द्रीय सूचना आयोग
Central Information Commission
बाबा गंगनाथ मार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, **New Delhi – 110067**

द्वितीय अपील संख्या/**Second Appeal No. CIC/ECOMM/A/2017/171660**

Shri Sunil Kishore Ahya

....अपीलकर्ता/Appellant

VERSUS

बनाम

1. Central Public Information Officer,
Under Secy.
Election Commission of India,
Room No. 113,
Nirvachan Sadan,
Ashoka Road,
New Delhi- 110001.

2. Central Public Information Officer,
ECIL, B-2,
DDA Local Shopping
Complex, A-Block,
Ring Road,
Naraina,
New Delhi-110028.

3. Central Public Information Officer,
Bharat Electronics Ltd. (BEL),
Corporate Office,
Outer Ring Road,
Nagavara,
Bangalore-560045.

...प्रतिवादी/Respondents

Date of Hearing: 11.09.2018

Date of Decision: 11.09.2018

ADJUNCT ORDER

Facts:

1. The matter was earlier heard by the Commission on 08.06.2018 and 27.06.2018. The matter is listed today for further hearing.

Hearing:

2. The appellant participated in the hearing through VC. The respondent no. 1, Sh. Soumyajit Ghosh, Under Secretary was personally present in the hearing. The respondent no. 2, Sh. M. Srirama Saran Prasad, CPIO participated in the hearing through VC. The respondent no. 3 reported at the NIC studio after the hearing was over.

3. The respondent no. 1 had sent their written submission dated 20.08.2018, which is taken on record. The respondent no. 2 had sent their written submission dated 17.08.2018 and 06.09.2018, which is taken on record. The respondent no. 3 had sent their written submission dated 26.07.2018, which is taken on record.

4. The respondent no. 1 stated that disclosure of information sought by the appellant may result in disclosing critical information pertaining to the design and engineering of EVMs in the public domain, which may give scope to the manufacturing of spurious machines in the market by unscrupulous elements. He further stated that this may determine the reputation and credibility of ECI-EVMs and pose a potential threat to the transparent democratic system of India. The respondent no. 1 stated that the information sought by the appellant is exempted from disclosure under Section 8(1)(a) and 8(1)(d) of the RTI Act.

5. The respondent no. 2 stated that disclosure of information sought by the appellant would tantamount to the disclosure of critical and confidential information pertaining to design and engineering of EVM units which is covered under Patent Rights vide no. 199087 dated 11.05.2001. The respondent no. 2 stated that the information sought by the appellant is exempted from disclosure under Section 8(1)(a) and 8(1)(d) of the RTI Act.

6. The respondent no. 3 in his written submissions dated 26.07.2018 has also taken the similar stand in denying the information to the appellant.

7. The appellant stated that the information sought by him is in larger public interest and it does not harm the competitive position of the respondents. The appellant stated that if there are spurious EVMs available in the market then the respondents must have the technique to detect those spurious machines. The appellant further stated that if any employee of the respondents is induced or threatened to disclose such information, then, automatically this information will come in public domain and this creates more threat to the democracy of the country. The appellant reiterated that the information sought by him is in larger public interest and the general public should have the confidence in the EVMs before they cast their vote. The general public cannot blindly trust the EVMs without knowing their specifications.

8. The respondent no. 1 stated that all the EVMs are checked twice before polling and certificate of their authenticity is issued. The checking is done in the presence of representatives of the contesting candidates. There is also a software by which the location of EVMs can be tracked. It was also stated that random checking of votes casts in EVMs at certain polling booths are matched with the list of voters who had cast their votes which is available with the Polling Booth Officer and no difference has ever been found.

Discussion/ observation:

9. The Commission is of the view that the configuration of EVMs is a matter of Intellectual Property Rights and its disclosure will harm the competitive position of the respondents. Besides, the Election Commission of India has expressed serious reservation about disclosure of the sought technical details on the grounds of possibility of manufacture of spurious EVMs. Therefore, the Commission agrees with the view point of the respondents.

Decision:

10. Since, the issues raised by the appellant are in the interest of creation of public trust in the voting system through EVMs, the CPIO is advised to place the matter before the competent authority for their perusal and necessary actions, if any.

11. No further intervention of the Commission is required in the matter.

The appeal is disposed of. Copy of the decision be given free of cost to the parties.

Radha Krishna Mathur (राधा कृष्ण माथुर)
Chief Information Commissioner (मुख्य सूचना आयुक्त)

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S.C. Sharma
Dy. Registrar
011-26186535

एस. सी. शर्मा, उप-पंजीयक

