Appellant - Shri Sudhir Chopra
Respondent - Central Vigilance Commission (CVC)

Facts:
These are four appeals moved by Shri Sudhir Chopra of Kalka Ji, New Delhi against information provided by the CPIO, CVC.

File no. CIC/WB/A/2008/01395
By an application of 8.2.08 Shri Sudhir Chopra has asked for the following information:

1. No. and details of cases where charge sheets have been issued to retired public servants during last five years for all central govt. depts. / undertakings under vigilance jurisdiction of CVC.
2. Dates on which initial complaint was received against public servants and date on which charge sheet served after retirement. Figures for last five years required case wises.
3. No. And detail of cases where disciplinary proceedings could not be started against retired public servants because charge sheets could not be served at the mailing address known to the dep’t. (figures for last five years are required).
4. No. & details of cases where charge sheet was issued within 15 days or beyond of retirement of a public servant (during last five years).
5. No. And details of cases were disciplinary proceedings have not been finalised within a period of two years from service of charge sheet.
6. No. & details of cases where officers served with a charge sheet have complained about delay in finalisation of enquiry proceedings against them. (Figures for last five years required)."
To this Shri Sudhir Chopra received a response of 29.2.08 from Under Secretary Shri J. Vinod Kumar as follows:

“2. Information as requested is not maintained by the Commission. Moreover the Departments concerned serve the charge sheet to its employee. Therefore, information as requested cannot be supplied as being not available in the Commission.

3. The cases of inordinate delays are reported in the Annual Reports of the Commission, which can be accessed on its website: http://www.cic.nic.in.”

Aggrieved Shri Chopra has moved an appeal before Shri V. K. Gupta, Appellate Authority, CVC on 11.3.08 pleading as follows:

“CPIO instead of providing the required information merely replied that information as required is not maintained by the Commission. As per section 4 (1) (a) of RTI, every public authority is required to maintain all its records duly catalogued and indexed in a manner and form which facilitates the right to information and all records are computerized within a reasonable time and connected through a network all over the country on different systems so that access to such records is facilitated.

The Annual Report of the Commission available of its website gives minimum information. The information sought by the applicant should have been also put on the website suo moto.”

Upon this, Shri Vinod K. Gupta, Addl. Secretary, in his order of 11.4.08 held as follows:

“I have perused the relevant records and I find that the CPIO’s reply is in order. The Commission maintains data in a computerized format relating to complaints/vigilance cases of officials in respect of cases handled by it. The specific and exclusive information has been sought by the appellant in respect of retired public servants only. Such separate data is not available in the database and cannot be provided by this public authority. I, therefore, find that the CPIO’s reply to the application of the appellant is in order and accordingly the decision of the CPIO is upheld.”

Aggrieved with this response, Shri Chopra has moved an appeal before us with the following prayer:
“(i) Direction to CPIO to provide requested information as CVC has been mandated to exercise supervision over vigilance machinery of the govt. and PSUs.

(ii) Penalty on CPIO and Appellate Authority.

In the grounds that he has cited for making this appeal, Shri Chopra has submitted as follows:

“To monitor progress of vigilance case including delay at various stages CVC gets monthly/ quarterly returns from all Departments and in case it did not actually have the requested information, as was being claimed, it should have transferred the part of application to those public authorities which were holding the required information.”

He has concluded with the following comments in this and all other appeals moved before us:

“The applicant is a whistleblower and is deeply concerned with the working of CVC and vigilance machinery of the Govt. and through recourse to information under RTI Act, the applicant has been trying to bring about transparency and accountability in the working of CVC. As per information gathered under RTI Act reveals, only halfhearted attempts are made to curb corruption and serious cases are closed on the ground that its efforts are being stonewalled. Officers involved in criminal/ vigilance cases are being allowed to work as DDG Vigilance and hold other important posts. For example, in defence estates department those who are blowing whistle on corruption are being issued charge sheets and those involved in corruption cases are being protected and promoted.”

File no. CIC/WB/A/2008/01536

In this case Shri Chopra has sought the following information through his request of 10.1.08:

“(i) Number and details of cases where CVC had recommended major penalty of removal/ dismissal from service during last five years but the public servants are still continuing in govt. service.

(ii) Number and details of cases where officers involved in criminal cases on corruption charges are looking after vigilance work in govt. dep’t. (e.g. DDG in charge of vigilance
in Dte. General of Defence Estates is himself involved in a
criminal case on corruption charges).

(iii) Action taken to ensure that officers themselves facing
criminal/ departmental cases on corruption charges are not
given work pertaining to vigilance section in govt. Dep’t/ 
PBUS.

(iv) Number and details of officers in the knowledge of CVC who
are looking after work of vigilance while themselves facing
criminal/ corruption cases and action taken in such cases.

(v) Action taken to enquire into complaints against DDG Vigilance of
Dte. General of Defence Estates.”

To this Shri Sudhir Chopra has received a point-wise response dated
2.6.08 from CPIO Shri A. K. Gupta, Under Secretary informing him as below:

“Para (1)
Generally the commission advises imposition of major/ minor
penalties without specifying the exact nature of penalty to be
imposed on charged officials. Final decision to impose penalty is
taken by the concerned disciplinary authority, therefore, information
requested by you is not maintained in the Commission.

Para (2) & (4)
The information is not available with the Commission. The
Commission is concerned only with the appointment of the CVO.
In one case, however, it has been reported to the Commission that
FIR has been lodged by the CBI against a Vigilance Officer of
NIACL.

Para (3)
The Commission is concerned (and its concurrence is required)
only in the matter of selection/ appointment of CVOs. The CVO of
the organization generally ensures that officers who are clear from
vigilance angle only are appointed as well as CVO of the company
have decided to continue utilising the services of the said officer.

Para (5)
After examining the report received from the Ministry of Defence,
regarding the complaints received against DDG (Vigilance), DGDE,
relating to his alleged involvement in a criminal case, the
Commission decided not to pursue this issue further.

Not satisfied, Shri Sudhir Chopra has moved an appeal before Shri V. K.
Gupta, Addl. Secretary on 6.5.08, pleading as below:

“2. CPIO instead of giving the required information declined the
same vide his undated letter bearing no.
CVC/RTI/07/790/3308 on the ground that the Commission simply advises imposition of penalty and final decision to impose penalty is to be taken by the concerned disciplinary authority and information requested is not maintained by the Commission.

3. It is unbelievable that the Commission does not maintain such information. In case this indeed is the case, it is quite shocking. Under these circumstances CPIO should have forwarded my application to concerned administrative authorities in Govt. of India who had been advised imposition of major penalty of removal/dismissal from service during last five years to know how many public servants were still continuing on their jobs who were imposed penalty of removal/dismissal of service and how many had been actually removed/dismissed.

4. In Defence Estates, Department, one official who was caught accepting bribe red handed by CBI and convicted by Court was compulsorily retried with full pensioner benefits. Therefore, there may be many cases where public servants who were imposed penalty of removal/dismissal from service may still be continuing on their jobs or retired with full pensionary benefits. As per section 6 (3) (i) & (ii) of the RTI Act if information requested is held by another public authority, the public authority to whom such an application is made, shall transfer the application or part thereof to that other public authority and inform the applicant immediately about such transfer. This was not done by the CPIO.

5. Similarly no information was provided on remaining four points and CPIO gave irrelevant reply.

6. CPIO also did not intimate the particulars of appellate authority to whom appeal could be made. He treated the application in a totally non serious manner and acted malafidely.”

In his order of 3.6.08 appellate authority Shri V. K. Gupta AS has held as follows:

“On examining the appeal, I find that the same has been received after considerable lapse of time i.e. almost 90 days of the reply of the CPIO concerned. I also find that no reason or cause has been stated by the appellant for the delay in preferring this appeal.

In view of above, I find that there is no merit or cause to reconsider the appeal and, therefore, the same is rejected.”
In this case, appellant’s prayer before us in second appeal is as below:

“(i) **Direction to CPIO to provide request information.**
(ii) **Penalty on CPIO and appellate authority for malafidely declining information.**
(iii) **Cost and damages (Rs. 100000+10000).**”

File no. CIC/WB/A/2008/01537

In his RTI application of 8.2.08 Shri Chopra has sought the following information:

“1. Number of details of cases referred to CVC by CVOs/ HOD/Adm. authorities/ PSU for initiating disciplinary action against public servants during last five years (Names of Dep’t./ PSU also reqd.) for last five years.
2. Number and details of cases out of (1) above where CVC advised initiating action for major penalty and minor penalty during last five years.
3. Final outcome in above cases (Dep’t. Wise) after completion of enquiry i.e. no. Of cases where major penalty and minor penalty was imposed during last five years.
4. Rate of conviction for major and minor penalty cases during last five years giving year wise details (i.e. out of 100 cases of major penalty recommended initially how many were finally imposed major penalty. Similarly rate of conviction in minor penalty cases).
5. Number of details of corruption cases reported by whistleblowers/ source information giving details about acts of corruption committed by public servants in govt. offices PSUs/ Rlys/Banks etc during last five years giving year wise details.
6. Number and details of cases which out of 5 above were investigated during last five years giving details year wise with names of departments.
7. Number and details of cases out of 5 above where after investigation, major and minor penalty was recommended by CVC during last five years.
8. Rate of conviction in cases reported by whistle blowers/ source information during last five years.”

To this Shri Chopra has received a response dated 26.2.08 refusing part of the information on the following grounds:

“As regards the issues of the applicant, data as requested is not maintained in that format. The relevant information regarding
cases/ complaints dealt in the Commission are reported in its annual reports, which are available on its website:
http://www.cvc.nic.in.

However, a copy of the last Annual Report for the year 2006 (P-16 to P-62) is enclosed for your perusal and information, which provide such information for the year 2006. The departments concerned submit reports which some time contains specific information about the individual (like bank details, credit facilities availed by private firms, Income-Tax and Excise related information etc) some reports contain details of commercial trade secrets. Some reports also contain personal information of the individuals (like property details etc.). The disclosure of this information of the individual’s investigation/ inquiry. This may also endanger physical safety of the persons associated with the investigations etc. Therefore, details of cases submitted to the Commission are denied u/s 8 (1) (e), 8 (1) (d), 8 (1) (g), 8 (1) (h) & 8 (1) (j) of the RTI Act.”

Shri Chopra has then moved an appeal before 1st appellate authority on 11.3.07 pleading as below:

“2. This is in total violation of RTI Act. As per judgment of Delhi High Court in W. P. (C) no. 3314/2007 in the matter of Bhagat Singh vs. Chief Information commissioner & Others it has been clearly held that the authority withholding the information must show satisfactory reasons as to why release of such information would hamper the investigation process as in section 8 (1) (h) and give reasons in support of each section.

3. Similarly how section 8 (1) (g) which relates to information, disclosure of which would endanger the life or physical safety of any person or identity the source information or assistance given in confidence for law enforcement a security agencies is applicable in this case defies all logic. I have nowhere asked for complete records/ documents of each and every case.

4. The above information was asked because of my experience of our own department of Defence Estates where officer not liked by HOD are implicated in false and fictitious cases and serious case of corruption are hushed in a routine manner and an officer involved in a criminal case is holding the charge of DDG Vigilance.

5. As you may be aware under section 4 of RTI Act, every public authority is mandated to maintain all its records in a manner which will facilitate right to information under the RTI Act and this era of e governance when all types of
information from all over the world can be accessed by click of a mouse through internet, denial of vital information on the ground that the same is not maintained in the required format is contrary to letter and spirit of RTI Act and judgment of Delhi High Court in Bhagat Singh case WP (C) No. 3114/07."

Upon this his appeal has been allowed in part by Appellate Authority Shri V.K. Gupta, Addl. Secretary as below:

"(i) I have examined the relevant records connected with the issues raised by the appellant and find that certain specific information, department/ organization-wise for five years is being sought by the appellant. Such specific information is not readily available in the vigilance complaints/ case database of the Commission. Further, many of the cases referred by CVOs for advice during the said period are still at various stages of finalization and information of pending disciplinary cases cannot be provided to the appellant. However, department/ organization wise information details on number of cases, advice of Commission and nature of penalty imposed with date in respect of finalized cases initiated on references received in the Commission from CVOs may be provided to the appellant for five years that is for the years 2002 to 2006 in so far as points at 1 to 5 of the application is concerned.

(ii) In so far as points 5 to 8 raised by the appellant, which relate to whistle blower complaints (PIDPIR), as the scheme of PIDPIR came into effect in April 2004, data on number of complaints received up to December 2007, department/ organization wise of such complaints and reports called for by Commission on such complaints can be provided to the appellant. Further, details like acts of corruption committed by public servants and information sought under point 7 and 8 by the appellant is not maintained separately by the Commission. As such these details cannot be provided as it is not maintained.

(iii) I also find that the information sought by the appellant includes information/ data of ongoing cases where disciplinary proceedings were recommended by CVC. As such cases have not been finalized by the departments concerned, information and related details are denied as disclosure of information would impede the process of investigation/ inquiry proceedings as well as it would cause unwarranted invasion of the privacy of individuals or reveal the identity/ source of information. Accordingly, exemptions
I accordingly, dispose the appeal preferred by the appellant with the directions to the CPIO to provide data/ information as ordered in Para (i) and (ii) above within 15 days of this order.

In this case also appellant’s prayer before us in second appeal is as below:

“(i) Direction to CPIO to provide requested information.
(ii) Penalty on CPIO and Appellate Authority for malafidely declining requested information.”

File no. CIC/WB/A/2008/01538

In this case Shri Chopra has sought the following information through an application dated 3.5.08:

1. Details of financial irregularities involving vigilance angle (giving nature of alleged irregularity, place, year etc.) committed by officers of Defence Estates Department, which were received during last three years and it was decided by the Commission not to pursue the matter further and close the case after receiving report of Dte. General of Defence Estates/ Ministry of Defence. (Complete records and correspondence is required).

2. Details of those cases where CVC recommended imposition of penalty, during last three years but charge sheet has still not been issued (nature of irregularity, place etc require) Names of officers not required.’

To this Shri Chopra has received a response dated 3.6.08 from CPIO Ms. Shalini Darbari, Director, as below:

“Para 1
It is informed that the Commission does not maintain such data.

Para 2
The question asked is not clear, however, it is intimated that there are 06 cases in which CVC has recommended initiation of disciplinary proceedings in respect of Defence Estates Department during last three years and charge sheet still not been issued. Details of these cases cannot be provided as these cases are still pending for logical end.’
Shri Chopra has then moved an appeal on 10.6.08, which was received in the CVC on 12.6.08 in which he has submitted, as follows:

“As per RTI Act, CPIO’s role is not limited to provide data already maintained. He or she has together the requisite information from whosoever may be having it. Moreover CVC is not a statistical organization whose job is limited to compiling data only.

Therefore, it is requested to instruct CPIO together and provide the required information. One case I have myself pointed out above. Since PIO is not giving details of complaints under investigation, it is difficult to know which complaints have been filed and which complaint is still under investigation and why it is taking so much time.”

Upon this Shri Chopra received the following order from Shri Vineet K Gupta AS allowing the appeal in part, as below:

“On examining the documents and connected papers pertaining to this appeal, I find that the information sought by the appellant under point no. 1 is not available in ready form and to cull it out large number of files will have to be shifted which is beyond the scope of RTI Act and would amount to creation of information. As such, I hold that the CPIO has rightly denied this information.

Regarding point no. 2 of the request, appellant states that the reasons given for denying details of six cases by the CPIO stating that the cases are pending for logical end is not correct. However, I find that the CPIO has not sought specific exemptions under any of the provisions of section 8 while denying information. CIC has in various decisions clearly stated that information/ details on such pending issues are exempted under section 8 (1) (h) of the RTI Act, as disclosure of information at this stage would impede the process of investigation/ inquiry. CPIO may however, provide to the appellant such readily available detail of these six cases, which would not affect or impede the inquiries. Further, details like investigation report including evidentiary part, noting etc., of the six cases sought by the appellant cannot be provided at this stage. In addition, CPIO is also directed to ensure that specific reasons are given while denying information invoking relevant provisions of section 8 of RTI Act, while reply to RTI applications in future.’
However, appellant’s prayer in second appeal is again as below:

“(i) **Direction to CPIO to provide request information.**
(ii) **Penalty on CPIO and appellate authority for malafidely declining requested information.**
(iii) **Cost and damages (Rs. 10000+1000).**”

In response to our appeal notice in each of these cases, we have received the following response with regard to the appeal in File No. **CIC/WB/A/2008/01538** from CPIO Shri P. S. Gupta, Advisor, CVC:

“(iii) The appellant has submitted three grounds in his appeal. As regards the first ground, it is submitted that the inspection of the file has been denied under the relevant section of the RTI Act, 2005, not malafidely, as contended by the appellant.

(iv) As regards the second ground, it is submitted that no fundamental right has been violated.

(v) As regards the third ground of appeal, it is submitted that the judgment cited by the appellant is case specific and as such is not be applicable to all cases.

Further in the case of Ms. Rukshana Shaheen Khan vs. Central Vigilance Commission in appeal No. CIC/WB/A/2007/00092 CIC in its decision dated 30.11.2007 had held that if CVC, under section 8 (1) (h) has come to conclusion that disclosure of information will impede the process of investigation and prosecution of an offender, CIC normally does not substitute its judgment for that of the authorized investigating agency. Similar view has been taken by the CIC cases of Shri V. R. Gokhale (Appeal No. CIC/WB/A/2006/00853) and Shri S. K. Nagarwala vs. CVC (Case No. 92 IC (A)/2006, dated 7.7.2006). Therefore, the present appeal before the CIC does not sustain and deserves to be dismissed. This public authority, therefore requests the Hon’ble CIC to order accordingly.”

These four appeals were scheduled for hearing on 3.12.2009. The following are present:

**Respondents**
Sh. Prem Sagar Gupta, Advisor CVC  
Sh. Rajeev Sharma, US / CPIO  
Sh. A. K. Gupta, US
When contacted on the telephone, appellant Shri Sudhir Chopra submitted that he was at Pune and was unable to attend. He, however, requested for an adjournment since he wished to be heard. Respondent Shri Prem Sagar Gupta, Advisor, CVC submitted that there are a number of cases which appellant Shri Sudhir Chopra has brought before the CVC. However, he had no objection to an adjournment to allow appellant Shri Sudhir Chopra full opportunity to be heard. In light of this the hearing was adjourned to 23.12.2009 at 4.00 p.m. by videoconference with Pune. The appeal was then heard on 23.12.2009. The following are present:

**Appellant** (at NIC Studio, Pune)
Shri Sudhir Chopra

**Respondents** (at CIC chambers, New Delhi)
Shri Rajiv Verma, Under Secretary
Shri A. K. Gupta, Under Secretary

Shri Sudhir Chopra submitted that in addition to these four appeals, there are two other appeals regarding which notice of hearing has also been issued but have not been included in the present hearing. Upon this Shri Rajiv Verma, Under Secretary, CVC submitted that the above two cases stand disposed of in our Decision also of 3.12.09, when the four appeals, which are part of the present hearing, were adjourned. Each of the remaining cases was then heard.

In the case of appeal in **File No. CIC/WB/A/2008/01395**, respondents Shri Rajiv Verma submitted that the information sought is not held by the Commission, as explained to appellant in response to his initial application. In this case, appellant’s only plea is that such information should be held.

In File No. **CIC/WB/A/2008/01536** again the issue with regard to information sought is that it is not maintained in the Commission. In this case, CPIO Shri A. K. Gupta submitted that what appellant Shri Sudhir Chopra has asked for in his the application is information on a specific major penalty which is removal / dismissal from service. He explained that although a record is
maintained in accordance with the Commission’s advice of the cases where a major or a minor penalty has been recommended, there is no break-up of the type of penalty, since the recommendations of the Central Vigilance Commission make no such categorization. Appellant Shri Sudhir Chopra, however, submitted that even though the CVC itself may not recommend dismissal or removal it should maintain a record of the manner of compliance in implementation of its orders.

In the case of File No. CIC/WB/A/2008/01537, the only issue is the disclosure of information with regard to cases that are under investigation. In this context, Shri Rajiv Verma, Under Secretary submitted that the details of the cases referred to the CVC with regard to questions 1 to 4 are provided in the Annual Reports of the Commission which are uploaded on their website, the address of which has been provided to appellant Shri Sudhir Chopra. Appellant Shri Chopra, on the other hand, submitted that with regard to questions 5 to 8, he had asked for details that are not part of the Annual Report. On this matter, although respondent Shri Rajiv Verma submitted that this would violate exemption provided u/s 8(1)(j) of the RTI Act by intruding on the privacy of the accused, appellant submitted that he was not interested in learning of the identity of the persons against whom the cases have been initiated, but only the nature of such cases in terms of detail sought.

Finally in case in File No. CIC/WB/A/2008/01538, the plea of appellant Shri Sudhir Chopra is that although appellate authority has directed that the CPIO supply to the appellant “such readily available details of the six cases which should not affect or impede the enquiry”, no such information has been provided. Shri Rajiv Verma, Under Secretary, on the other hand, submitted that in fact there has been compliance with this order through the letter of 287.8.’08 addressed to appellant Shri Sudhir Chopra by CPIO Shri P. S. Gupta, Advisor, CVC in which he has provided the details of six cases of DGDE pending for “logical end” to appellant Shri Sudhir Chopra, as follows:
<table>
<thead>
<tr>
<th>S. No.</th>
<th>F. No.</th>
<th>Name &amp; designation (S/Shri)</th>
<th>Commission’s first stage advice</th>
<th>Date of first stage advice</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>005/DEF/027</td>
<td>RS Cheema, Ex CEO</td>
<td>Initiation of major penalty proceedings</td>
<td>6.7.2005</td>
</tr>
<tr>
<td>2.</td>
<td>005/DEF/051</td>
<td>JS Mahi, then CEO</td>
<td>Initiation of major penalty proceeding</td>
<td>24.10.2005</td>
</tr>
<tr>
<td>3.</td>
<td>CONF/760/05</td>
<td>SR Nayyar, CEO</td>
<td>Initiation of major penalty proceedings</td>
<td>16.6.2006</td>
</tr>
<tr>
<td>6.</td>
<td>007/DEF/075</td>
<td>A. P. Singh, Principal Director, DE</td>
<td>Initiation of major penalty proceedings</td>
<td>4.10.2006</td>
</tr>
</tbody>
</table>

In this case appellant submitted that what he had sought was details of financial irregularities involving vigilance angle allegedly committed by officers of DGDE. While acknowledging the receipt of the above information Shri Sudhir Chopra submitted that this did not provide the specific information asked for in question at S. No.1, since the nature of the offence with regard to which the first stage advice had been provided is nowhere described.

On conclusion of the hearing, respondents submitted a copy of a letter dated 8.11.07 received by them from DG Shri C.R. Mohapatra of the Directorate General of Defence Estates, in which the Director General has accused appellant, in these cases Shri Sudhir Chopra, of “highly undesirable activities of one of the officers of Indian Defence Estates Service who has been indulging in serial complaints deliberately and motivatedly against his superior officers for the last several years. He often takes credit and licence from the fact that he has been conferred the status of a ‘whistle blower’ by the CVC, a status he does not deserve in the least, considering his various acts of indiscipline, continuous defiance of authority for no rhyme or reason and his not so clean record of Service”. Shri Mohapatra has concluded his letter with the following comments:
“If the intent and objective of a whistle blower whose own record is not straight, is to serve his personal interests, to shun and scorn his official duties and obligations and above all to indulge in mischievous, partisan propaganda and rumor-mongering, he should be taken to task and stripped of his badge of whistle blower.

You may like to give your serious consideration to this matter and take suitable measures to curb such tendentious propaganda and mud slinging by Shri Sudhir Chopra.”

With regard to the remaining two appeals to which reference was made by appellant Shri Sudhir Chopra in the hearing, we find that these have been dismissed by our order of 3.12.'09. In both these cases, the appeal of Shri Sudhir Chopra hinged on the judgment of the Delhi High Court in W.P.(C) No.3114/2007 – Shri Bhagat Singh Vs. Chief Information Commissioner & Ors. In both these cases our Decision Notice of 3.2.'09. available on the CIC website www.cic.gov.in, of that date, was as follows:

“The relevant portion of the High Court decision cited by appellant Shri Sudhir Chopra, in support of his appeal, reads as follows:

13. Access to information under Section 3 of the Act is the rule and exemptions under Section 8, the exception. Section 8 being a restriction on this fundamental right, is to be strictly construed. It should not be interpreted in a manner as to shadow the very right self. Under Section 8, exemption from releasing information is granted if it would impede the process of investigation process cannot be a ground for refusal of the information, the authority withholding information must show satisfactory reasons as to why the release of such information would hamper the investigation process. Such reasons should be germane, and the opinion of the process being hampered should be reasonable and based on some material, sans this consideration, Section 8(1) (h) and other such provisions would become the haven for dodging demands for information.

The ruling, therefore, requires that in refusing information the reasons for doing so have to be provided, not simply citing a particular clause in the Act. In both these cases, however, the reasons have clearly been given and these are that both cases are under investigation and opening the file itself to disclosure without any specification of requirement, could compromise the entire investigation process. In both these cases, “satisfactory reasons”
having clearly been given, it cannot be said that the CPIO in these cases has sought exemption from disclosure u/s 8(1) (h) without disclosing the reasons for seeking such exemption. For this reason, both these appeals of Shri Sudhir Chopra are unsustainable and are hereby dismissed.”

With regard to the letter of Director General Shri C. R. Mohapatra, received by CVC, this concerns a decision to be taken by the CVC, which is the administrative Department since 2007 with regard to implementation of the “Public Interest Disclosure and Protection of Informer” Resolution, 2004. However, the use of the RTI Act for the purpose of ensuring transparency and accountability can in no case be treated as a transgression of the liberty that the law grants to every citizen of India, since full compliance with the letter of the law itself is the best protection for such public authorities that wish to avoid the inconvenience of being repeatedly answerable on matters of routine procedure. Such matters should normally be the subject of *suo moto* public disclosure as mandated under sub sections (b), (c) & (d) of Sec. 4(1) of the RTI Act, 2005.

Coming to the specific appeals before us, we find that in **File No. CIC/WB/A/2008/01395**, CPIO has already informed appellant Shri Sudhir Chopra that the CVC does not hold the information that he seeks. It is a moot point whether the public authority should held such information. At any rate the CVC may treat this application as a suggestion and take further action on its merits as such. However, this is not sustainable in appeal and this appeal is hereby dismissed.

In the case of the appeal in **File No.CIC/WB/A/2008/01536**, on the other hand, it is quite clear that the information sought is with regard to compliance with the directions of the CVC. The CVC being a public authority working to conserve public confidence in the incorruptibility of governance in itself makes clear that this kind of information falls clearly within the description of the kind of information that will be expected to be maintained and disclosed u/s 4(1)(d) which requires that every public authority shall “provide reasons for its
administrative or quasi-judicial decisions to affected persons.” For this reason and as agreed by respondents in the hearing, such information with regard to six question, as the CVC holds will be provided to appellant Shri Sudhir Chopra within ten working days of the date of receipt of this Decision Notice. This appeal is thus allowed in part. There will be no costs

With regard to **File No. CIC/WB/A/2008/01537**, it has been argued, both at the level of CPIO and of First Appellate Authority Shri Vineet K Gupta, AS, that providing of details sought at questions 5, 6, 7 & 8 could, in addition to impeding the process of investigation, also amount to invasion of privacy. It is correct that we have held in many decisions that we have no clear definition of what is meant by invasion of privacy within the RTI Act. We have no equivalent of UK’s Date Protection Act, 1998, Sec 2 of which, titled ‘Sensitive Personal Data’, reads as follows:

“In this Act “sensitive personal data” means personal data consisting of information as to:

a) The racial or ethnic origin of the data subject.
b) His political opinions.
c) His religious beliefs or other beliefs of a similar nature.
d) Whether he is a member of a Trade Union.
e) His physical or mental health or condition.
f) His sexual life.
g) The commission or alleged commission by him of any offence.
h) Any proceedings for any offence committed or alleged to have been committed by him, the disposal of such proceedings or the sentence of any court in such proceedings.

To construe privacy to mean protection of personal data, we have found this a suitable starting point to help define the concept. Clearly the information sought will fall squarely under Sec 2 (g) and (h) of that Act The US Restatement of the Law, Second, Torts, 652 on the other hand, defines the invasion of Privacy in the following manner:

One, who intentionally intrudes, physically or otherwise, upon the solitude or seclusion of another or his private affairs or concerns,
subject to liability to the other for invasion of his privacy, if the intrusion would be highly offensive to a reasonable person.

Moreover, the decision of the Supreme Court in 2004-(008)-SUPREME-0547-SC District Registrar Collector, Hyderabad & Anr. Vs. Canara Bank etc. in which Rt Hon'ble R.C. Lahoti J. and Ashok Bhaj J. had decided as follows:

“18. History takes us back to Semayne’s case decided in 1603 (5 Coke’s Rep 91a) (77 Eng Rep 194) (KB) where it was laid down that ‘Every man’s house is his castle. One of the most forceful expressions of the above maxim was that William Pit in the British Parliament in 1763. He said “The poorest man may in his cottage bid defiance to all the force of the Crown. It may be frail its proof may shake the wind may below through it the storm may enter, the rain may enter but the Kind of England cannot enter his entire force dare not cross the threshold of the ruined tenement.”

20. Article 12 of the Universal Declaration of Human Rights (1948) refers to privacy and it states:

No one shall be subjected to arbitrary interference with the privacy, family, home or correspondence nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 17 of the International covenant of Civil and Political Rights (to which India is a party) refers to privacy and states that:

No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home and correspondent, nor to unlawful attacks on his honour and reputation.

21. The European Convention on Human Rights, which came into effect on September 3rd 1953, also states in Article 8:

1. Everyone has the right to respect for his private and family life, his home and his correspondence…

…The American Courts trace the ‘right to privacy’ to the English common law that treated it as right associated with ‘right to property’…

…The concept of privacy embodies the moral fact that a person belongs to himself and not to others nor to society as a whole…”

…Physical privacy is as necessary to ‘relations o the most fundamental sort.. respect, love, friendship and trust’ as ‘oxygen is for combustion.’…..
Intrusion into privacy may be by – (1) legislative provisions, (2) administrative/ executive orders and (3) judicial orders. The legislative intrusions must be tested on the touchstone of reasonableness as guaranteed by the Constitution and for that purpose the Court can go into the proportionately of the intrusion vis-à-vis the purpose sought to be achieved......

Kharak Singh vs. State of UP, 1964 (1) SCR 332, the UP Regulations regarding domiciliary visits were in question and the majority referred to Munn vs. Illinois (1876) 94 US 113 and held that though our Constitution did not refer to the right to privacy expressly, still it can be traced from the right to 'life' in Article 21......

.....The privacy right can be denied only when an important countervailing interest is shown to be superior', or where a compelling State interest was shown."

In this case, however, as now clarified by appellant in the hearing, he is not seeking the names or any personal information with regard to the persons against whom the cases have been initiated. We find that through CPIO Shri Vineet Kumar’s letter of 4.6.08, in compliance with the directions of Appellate Authority Shri Vineet Gupta of 11.4.08, has provided the following information:

“The following information is provided as per orders of AA dated 11.4.2008:
(i) Department wise information details on number of cases finalized which were initiated on reference from CVOs for the years 2002 to 2006.
(ii) Data on number of complaints received under PIDPR from April 2004 to December 2007 giving names of Departments/organizations.
(iii) Data on number of complaints received under PIDPIR forwarded for investigation and report from April 2004 to December 2007.’

Similarly statistics with regard to remaining information not so far provided would also now be provided to appellant Shri Sudhir Chopra specifying in case any information is withheld, as to how the disclosure of such information would impede the process of investigation u/s 8(1)(h). This will be done within ten working days of the date of receipt of this Decision Notice. This appeal is therefore also allowed in part. Again, there will be no costs
We find that in **File No. CIC/WB/A/2008/01538**, the information disclosed in compliance with the orders of the Appellate Authority includes the names and designations of the officers being proceeded against, which is exactly the information which was exempt from disclosure u/s 8(1)(j), as we have held in disposing of the appeal in file No. **CIC/WB/A/2008/01537**. CPIO Shri P. S. Gupta, Advisor, CVC will now however provide to appellant a revised list of the six cases providing the nature of complaint upon which advice had been given. This exercise will also be completed within ten working days of the date of receipt of this Decision Notice. **The appeal in this case is allowed.** There will be no costs.

In all the above cases, where further information is now required to be supplied, this will, in compliance of sub sec. (6) of Sec. 7 of the Act, now be provided free of cost.

Announced in the hearing. Notice of this decision be given free of cost to the parties.

(Wajahat Habibullah)  
Chief Information Commissioner  
23.12.2009

Authenticated true copy. Additional copies of orders shall be supplied against application and payment of the charges, prescribed under the Act, to the CPIO of this Commission.

(Pankaj Shreyaskar)  
Joint Registrar  
23.12.2009