

Central Information Commission
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Ms. K Sharada vs M/O External Affairs on 27 March, 2009
Central Information Commission

CIC/AD/A/X/09/000161

Dated March 27, 2009

Name of the Applicant : Ms. K Sharada

Name of the Public Authority : M/o External Affairs

Background

1. The Applicant filed an RTI application on 12.08.2008 with the CPIO, CPV Division, MEA. She requested for the following information with regard to the passport issued to Smt. Nitaly Dewan, w/o Mr. Suhas Chakma presently residing at C-1/66-C, Janakpuri, (Near Mata Chanan Devi Hospital), New Delhi - 110 058.

Copies of all the documents submitted by Smt. Nitaly Dewan at the time of applying for all her passports so far, starting from the first passport booklet applied for, upto the most recent one including: a) Proof of date of birth

b) Citizenship document, if any.

The CPIO, RPO, New Delhi replied on 15.9.08 denying the information u/s 8(1) (j) of the RTI Act, 2005 since the information related to "third-party information". The Appellate Authority, in response to Applicant's appeal which reached his office on 6.10.08 replied on 14.10.08 upholding the decision of the CPIO.

2. The applicant filed a second appeal on 20.12.2008 before the CIC. In her appeal she alleged that the documents submitted by Ms. Dewan for the purpose of applying for a passport are forged/fabricated. Ms. Dewan is allegedly a Bangladeshi national having illegally registered herself as an Indian citizen. The Appellant has further submitted that the actual/original name of Ms. Dewan was 'Gloria' Chakma or 'Glory Chakma' and that she happens to be the daughter of Late Upendralal Chakma, who was the adviser on tribal affairs to former Bangladeshi President H. M. Ershad. The change of name of Ms. Dewan from 'Gloria/Glory' to Nitaly is also believed to be a part of the attempt to acquire an Indian nationality on her marriage to Mr. Suhas Chakma, another illegal immigrant. Ms. Dewan alongwith her husband Mr. Chakma is thus, allegedly guilty of violating provisions of the Passports Act, 1967; the Indian Penal Code, 1860; the Citizenship Act, 1955 and also the Foreigners Act, 1946. In her submissions, the Appellant while laying emphasis on the "larger public interest" prevailing upon the exemption granted under Section 8 (1) (j) of the RTI Act 2005 also placed reliance on the CIC Decision No.CIC/OK/C/2006/00010 dated 30.08.2006 submitted alongwith her appeal "upholding the paramouncy of public interest". The Appellant further relied on a catena of judgments of CIC on the issue of whether public interest outweighs privacy of an individual vis a vis personal information. Among the decisions cited by the Appellant, in CIC/AT/A/2007/00009 dated 02.03.2007 and in CIC/MA/A/2006/00258 dated 25.07.2006 also the emphasis was clearly on disclosure of any information which was in the larger public interest. The applicant has also relied on the CIC Decision No.CIC/OK/A/2007/01079 laying stress on "larger public interest" to be the deciding criteria for disclosure of information. Three judgments reflecting the concern of even the Delhi High Court on the issue of detection and deportation of illegal migrants from Bangladesh have also been cited substantiating the Appellant's submissions on "larger public interest".

3. The Bench of Mrs. Annapurna Dixit, Information Commissioner, scheduled the hearing on March 27, 2009.

4. Mr. V. Mahalingam, RPO, Delhi; Mr. P Roychaudhuri, Advocate representing MEA, CPV Division and Jimmy Simon, UDC represented the Public Authority.

5. The Applicant K. Sharda in person alongwith Sarim Naved, Advocate and Mr. R Nair were present during the hearing.

Decision

6. During the hearing and after much debating on the issue as to whether the information pertaining to a third party can be divulged in the larger public interest, it was agreed by the parties that public interest prevails over any individual interest and dispute. In view of the facts and circumstances of this case, the gravity of the issue of illegal immigrants is of rising concern, more so in view of the utmost priority of the national safety and security of the citizenry. Hence the need for transparency in the functioning and mechanism of the MEA is also necessitated. Accordingly, it was agreed by the parties present, that the Appellant herein shall file an appropriate complaint before the Respondent Public Authority viz. MEA within a period of 10 working days without waiting for the orders of the Commission. The CPIO is directed to forward a copy of this order to the concerned DSP and to take expeditious action in diligently following up the said complaint with the police authorities seeking necessary information as sought by the Appellant. The CPIO is directed to furnish the information availed by the police authorities to the Appellant satisfying the Appellant on the aspect as to whether the Passport obtained by the Third Party viz. Ms. Nitaly Dewan, was on the basis of forged and fabricated documents or not. The CPIO is furthermore directed to furnish an Inquiry Report with the Commission within a period of three months from the date of receipt of this Order.

7. The appeal is accordingly disposed off. (Annapurna Dixit)

Information Commissioner

Authenticated true copy:

(K.G.Nair)

Designated Officer

Cc:

1. Ms.K.Sharada

B-21, Jain Park

Kiran Garden

Uttam Nagar

New Delhi 110 059

2. Mr.V.Mahalingam

The CPIO &

Regional Passport Officer

Regional Passport Office

Ministry of External Affairs

Hudco Trikoot-3

Bhikaji Cama Place

R.K.Puram

New Delhi 110 066

3. Mr.R.Swaminathan

The Appellate Authority &

Joint Secretary (CPV)

Ministry of External Affairs

Patiala House, Annexe I

Tilak Marg

New Delhi

4. Deputy Superintendent of Police,

Through CPIO & RPO

Mr.V.Mahalingam

Regional Passport Office

Ministry of External Affairs

Hudco Trikoot-3

Bhikaji Cama Place

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5. Officer in charge, NIC

6. Press E Group, CIC