

केंद्रीय सूचना आयोग
CENTRAL INFORMATION COMMISSION
बाबा गङ्गानाथ मार्ग
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File No.: CIC/NRAIL/A/2017/145203

In the matter of:

Madhu

...Appellant

VS

PIO and Sr. DMM, DRM Office,
Northern Railway, State Entry Road,
New Delhi Railway Station, New Delhi-55

...Respondent

| | Dates |
|------------------------|---------------------|
| RTI application | : 13.04.2017 |
| CPIO reply | : Not on Record |
| First Appeal | : 16.05.2017 |
| FAA Order | : Not on Record |
| Second Appeal | : 01.07.2017 |
| Date of hearing | : 05.12.2017 |

Facts:

The appellant vide RTI application dated 13.04.2017 sought copy of her husband's caste certificate to enable her to apply for caste certificate for her daughter. The CPIO's reply or the First Appellate Authority (FAA)'s order is not on record. Aggrieved with the non-supply of the desired information from the respondent authority, the appellant filed a second appeal under the provision of Section 19 of the RTI Act before the Central Information Commission on 01.07.2017.

Order:

Appellant : Present

Respondent : Smt. Uma Sharma, Assistant Personnel Officer
cum APIO, Delhi division, NR

During the hearing the appellant submitted that she was living separately from her husband and she needed the copy of caste certificate of her husband for applying for a caste certificate for her daughter.

The respondent APIO submitted that they had provided the requisite reply vide their letter dated 04.05.2017 and denied the information sought for, being related to third party's personal information.

Based on the submission of the parties, the Commission is of the opinion that the importance of a caste certificate of father for a child cannot be ruled out. However, this is also a settled fact that copy of caste certificate of a third party is personal information of that third party. According to Sec 2(n) of the RTI Act,

"third party" means a person other than the citizen making a request for information and includes a public authority.

The Commission is of the opinion that in a matrimonial battle between estranged spouses, a child should not be made to suffer. There is no doubt that when the Commission is confronted by such conflicting claims, provision of the RTI Act shall be allowed to be enforced. However in the present case, the welfare of the innocent child helplessly caught in the quagmire of the parents' matrimonial battle cannot be ignored completely. The welfare and interest of the child in this case would be undermined or jeopardized to a large extent if the caste certificate of her father is withheld from her. However, Section 8(1)(j) of the RTI Act preserves the right of a third party in no unclear terms. The onus was on the appellant to prove that public interest is involved in the case to attract the proviso to Sec 8(1)(j) of the RTI Act. The appellant did not submit any cogent reason to demonstrate the involvement of a larger public interest in the case. Therefore, the final call is on the part of the third party who should be asked under the provision of the section 11(1) of the RTI Act whether to provide or deny the sought for information in this case. In case consent from the

third party is received within the time stipulated u/s 11(1) of the Act, the sought for information can be provided to the appellant.

The Commission therefore, directs the CPIO (Personnel) to issue notice u/s 11 of the RTI Act to the third party within five days from the receipt of this order, informing him of the Commission's order and of the fact that the respondent is directed to disclose the information subject to third party(s) consent and invite the third party to make a submission in writing on whether the information sought for in the above stated RTI application should be disclosed to the appellant in this case. The third party in this case, within ten days from the date of receipt of such notice, shall inform the respondent authority about his stand. In case the third party gives consent, the CPIO shall provide complete information within 3 days from the receipt of such consent to the appellant and if the third party objects, the same shall be intimated to the appellant within the same time period under intimation to the Commission.

With the above direction, the appeal is disposed of.

Copies of this order be sent to both the parties free of cost.

[Amitava Bhattacharyya]
Information Commissioner

Authenticated true copy

(A.K. Talapatra)
Deputy Registrar