

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/NINCL/A/2018/160488-BJ

Mr. Rana Ranjan

....अपीलकर्ता/Appellant

VERSUS

बनाम

CPIO & Divisional Manager
National Insurance Company Ltd.
205, Geetanjali Complex, Kalanala
Bhavnagar – 364001, Gujarat

...प्रतिवादीगण /Respondent

Date of Hearing : 05.02.2020
Date of Decision : 06.02.2020

Date of RTI application	23.07.2018
CPIO's response	23.08.2018
Date of the First Appeal	23.08.2018
First Appellate Authority's response	24.09.2018
Date of diarised receipt of Appeal by the Commission	04.10.2018

ORDER

FACTS:

The Appellant vide his RTI application sought information on 04 points regarding the number of employees posted at Amreli Branch from 16.10.2013 to 17.07.2014; number of working days during the aforementioned period; number of days they were present; if they were on leave, the kind of leave availed by them.

The CPIO, vide its letter dated 23.08.2018 stated that the information sought was personal in nature. Dissatisfied by the response, the Appellant approached the FAA. The FAA, vide its order dated 24.09.2018 denied disclosure of information u/s 8 (1) (j) of the RTI Act, 2005.

HEARING:

Facts emerging during the hearing:

The following were present:

Appellant: Mr. Rana Ranjan through VC;

Respondent: Mr. Ramesh S. Parmar, Div. Manager & CPIO through VC;

The Appellant reiterated the contents of the RTI application and stated that the information was incorrectly denied under Section 8 (1) (j) of the RTI Act, 2005, since it was not the personal information of employees but pertained to the public duty performed by them which should have been disclosed to him in the larger public interest. In its reply, the Respondent reiterated the response of the CPIO / FAA and stated that the information sought was personal in nature the disclosure of which could cause unwarranted invasion to the privacy of the employees and that if the Appellant had any apprehension regarding the activities of the employees / irregularities committed by them etc. he could approach the Vigilance Department of the Public Authority for the same instead of invoking the provisions of the RTI Act, 2005. On being queried by the Commission, if he had approached the Vigilance Department of the Public Authority, the Appellant replied in the affirmative but submitted that no action was taken on his representation, till date.

The Commission referred to the definition of information u/s 2(f) of the RTI Act, 2005 which is reproduced below:

“information” means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, report, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.”

Furthermore, a reference can also be made to the relevant extract of Section 2 (j) of the RTI Act, 2005 which reads as under:

“(j) right to information” means the right to information accessible under this Act which is held by or under the control of any public authority and includes”

In this context a reference was made to the Hon’ble Supreme Court decision in 2011 (8) SCC 497 (CBSE Vs. Aditya Bandopadhyay), wherein it was held as under:

35..... “It is also not required to provide ‘advice’ or ‘opinion’ to an applicant, nor required to obtain and furnish any ‘opinion’ or ‘advice’ to an applicant. The reference to ‘opinion’ or ‘advice’ in the definition of ‘information’ in section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act.”

Furthermore, the Hon’ble Supreme Court of India in Khanapuram Gandaiah Vs. Administrative Officer and Ors. Special Leave Petition (Civil) No.34868 OF 2009 (Decided on January 4, 2010) had held as under:

6. “....Under the RTI Act “information” is defined under Section 2(f) which provides:

“information” means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, report, papers, samples, models, data material held in any electronic form and information

relating to any private body which can be accessed by a public authority under any other law for the time being in force.”

This definition shows that an applicant under Section 6 of the RTI Act can get any information which is already in existence and accessible to the public authority under law. Of course, under the RTI Act an applicant is entitled to get copy of the opinions, advices, circulars, orders, etc., but he cannot ask for any information as to why such opinions, advices, circulars, orders, etc. have been passed.”

7. *“...the Public Information Officer is not supposed to have any material which is not before him; or any information he could have obtained under law. Under Section 6 of the RTI Act, an applicant is entitled to get only such information which can be accessed by the “public authority” under any other law for the time being in force. The answers sought by the petitioner in the application could not have been with the public authority nor could he have had access to this information and Respondent No. 4 was not obliged to give any reasons as to why he had taken such a decision in the matter which was before him.”*

The Commission referred to the judgment of the Hon’ble Supreme Court of India in Girish Ramchandra Deshpande vs. Central Information Commission & ors. SLP(C) No. 27734 of 2012 dated 03/10/2012 wherein it was held as under:

“13.....The performance of an employee/officer in an organization is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression "personal information", the disclosure of which has no relationship to any public activity or public interest. On the other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual. Of course, in a given case, if the Central Public Information Officer or the State Public Information Officer of the Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information, appropriate orders could be passed but the petitioner cannot claim those details as a matter of right.”

A reference can also be made to the decision of the Hon’ble Supreme Court of India in the matter of Canara Bank Rep. by its Deputy Gen. Manager v. C.S. Shyam, Civil Appeal No. 22 of 2009 dated 31.08.2017 wherein it was held as under:

“5) The information was sought on 15 parameters with regard to various aspects of transfers of clerical staff and staff of the Bank with regard to individual employees. This information was in relation to the personal details of individual employee such as the date of his/her joining, designation, details of promotion earned, date of his/her joining to the Branch where he/she is posted, the authorities who issued the transfer orders etc. etc

11) Having heard the learned counsel for the appellant and on perusal of the record of the case, we are inclined to allow the appeal, set aside the impugned order and dismiss the application submitted by the 1st respondent under Section 6 of the Act.

12) In our considered opinion, the issue involved herein remains no more res integra and stands settled by two decisions of this Court in Girish Ramchandra Deshpande vs. Central Information Commissioner & Ors., (2013) 1 SCC 212 and R.K. Jain vs. Union of

India & Anr., (2013) 14 SCC 794, 5 it may not be necessary to re-examine any legal issue urged in this appeal.

14) In our considered opinion, the aforementioned principle of law applies to the facts of this case on all force. It is for the reasons that, firstly, the information sought by respondent No.1 of individual employees working in the Bank was personal in nature; secondly, it was exempted from being disclosed under Section 8(j) of the Act and lastly, neither respondent No.1 disclosed any public interest much less larger public interest involved in seeking such information of the individual employee and nor any finding was recorded by the Central Information Commission and the High Court as to the involvement of any larger public interest in supplying such information to respondent No.1.”

Furthermore, in a recent judgment dated 13.11.2019 in Civil Appeal No. 10044 OF 2010 with Civil Appeal No. 10045 OF 2010 and Civil Appeal No. 2683 of 2010, the Hon’ble Supreme Court of India, had observed as under:

“59. Reading of the aforesaid judicial precedents, in our opinion, would indicate that personal records, including name, address, physical, mental and psychological status, marks obtained, grades and answer sheets, are all treated as personal information. Similarly, professional records, including qualification, performance, evaluation reports, ACRs, disciplinary proceedings, etc. are all personal information. Medical records, treatment, choice of medicine, list of hospitals and doctors visited, findings recorded, including that of the family members, information relating to assets, liabilities, income tax returns, details of investments, lending and borrowing, etc. are personal information. Such personal information is entitled to protection from unwarranted invasion of privacy and conditional access is available when stipulation of larger public interest is satisfied. This list is indicative and not exhaustive.”

Furthermore, the Hon’ble High Court of Sikkim in the matter of Sancha Bahadur Subba vs. State of Sikkim W.P. (C) 31/2017 dated 30.04.2018 had held as under:

“30. What concludes therefore from the gamut of discussions herein above is that in a given case information pertaining to assets and liabilities can be disclosed with the rider that there must be larger public interest involved justifying such disclosure. As can be culled out from the averments and submissions, the Petitioner herein suspects that the Respondent No. 5 is in possession of assets disproportionate to his known sources of income, however mere suspicion without any prima facie material to substantiate it does not justify the disclosure of such information of the Respondent No. 5 as rests with the concerned government authority. This situation indeed appears to be a fishing expedition embarked upon by the Petitioner without any bona fide public interest. In these circumstances, it obtains that disclosure of such information would cause unwarranted invasion of the privacy of the individual and falls under the ambit of Section 8(1)(j) of the RTI Act.”

DECISION:

Keeping in view the facts of the case and the submissions made by both the parties and in the light of the decisions cited above, no further intervention of the Commission is required in the matter.

The Appeal stands disposed accordingly.

(Bimal Julka) (बिमल जुल्का)
(Information Commissioner) (सूचना आयुक्त)

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(अभिप्रमाणित सत्यापित प्रति)

(K.L. Das) (के.एल.दास)
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