

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/DGVCE/A/2017/181299-BJ

Mr. K.S. Jain

...अपीलकर्ता/Appellant

VERSUS

बनाम

CPIO & Deputy Commissioner (Vig.),
Directorate General of Vigilance, Customs &
Central Excise, 3rd Floor, Hotel Samrat,
Kautilya Marg, Chanakyapuri,
New Delhi- 110021

...प्रतिवादीगण /Respondent

Date of Hearing : 03.08.2018
Date of Decision : 06.08.2018

Date of RTI application	31.05.2017
CPIO's response	27/28.07.2017
Date of the First Appeal	05.08.2017
First Appellate Authority's response	03/10.09.2017
Date of diarised receipt of Appeal by the Commission	06.12.2017

ORDER

FACTS:

The Appellant vide his RTI application sought information on 3 points regarding copy of report received from Chief Commissioner of CC (CCO), Chennai on the basis of which his complaint was closed, copy of internal rules or document followed by the Respondent for closing complaint on the strength of CCO's report, copy of internal document followed by the Respondent for not intimating the Complainant about closing the complaint.

The CPIO vide letter dated 27/28.07.2017 provided a point-wise response to the Appellant. Dissatisfied with the of CPIO's reply, the Appellant approached the FAA. The FAA vide its order dated 03/10.09.2017 concurred with the CPIO's response.

HEARING:

Facts emerging during the hearing:

The following were present:

Appellant: Mr. K.S. Jain through VC;

Respondent: Mr. Govind Kumar Garg, CPIO/Dy. Commissioner;

The Appellant reiterated the contents of his RTI application and stated that the information sought by him related to seeking the outcome of his own complaint regarding the official duties performed by a Public Servant hence denial u/s 8 (1) (j) was incorrectly claimed by the Respondent. In support of his contention, the Appellant also referred to the decision of the Hon'ble High Court of Delhi in *B.S. Mathur v. PIO* in W.P. (C) 295 of 2011 dated 03.06.2011 to submit that mere pendency of investigation was not a justification for denial of information. In its reply, the Respondent stated that the RTI application/ First Appeal were responded in accordance with the provisions of the RTI Act, 2005. Since the Appellant was seeking information regarding the performance of duties of their employee, an exemption u/s 8 (1) (j) of the RTI Act, 2005 was claimed. Moreover, it was informed that a similar matter was heard by the Commission in Appeal No. CIC/SB/A/2016/001088-BJ dated 24.04.2017 in compliance to which the Appellant was informed that his Complaint was closed. In support of their contention, the Respondent relied on the decision 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. On being queried by the Commission regarding the larger public interest warranting disclosure of information, no satisfactory response was provided by the Appellant.

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.”

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 had 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.”*

The Hon’ble Supreme Court in the matter of Bihar Public Service Commission v. Saiyed Hussain Abbas Rizwi: (2012) 13 SCC 61 while explaining the term “Public Interest” held:

“22. The expression "public interest" has to be understood in its true connotation so as to give complete meaning to the relevant provisions of the Act. The expression "public interest" must be viewed in its strict sense with all its exceptions so as to justify denial of a statutory exemption in terms of the Act. In its common parlance, the expression "public interest", like "public purpose", is not capable of any precise definition. It does not have a rigid meaning, is elastic and takes its colour from the statute in which it occurs, the concept varying with time and state of society and its needs (State of Bihar v. Kameshwar Singh([AIR 1952 SC 252]). It also means the general welfare of the public that warrants recognition and protection; something in which the public as a whole has a stake [Black's Law Dictionary (8th Edn.)].”

The Hon’ble Supreme Court in the matter of Ashok Kumar Pandey vs The State Of West Bengal (decided on 18 November, 2003 Writ Petition (crl.) 199 of 2003) had made reference to the following texts for defining the meaning of “public interest”, which is stated as under:

“Strouds Judicial Dictionary, Volume 4 (IV Edition), 'Public Interest' is defined thus: "Public Interest (1) a matter of public or general interest does not mean that which is interesting as gratifying curiosity or a love of information or amusement but that in which a class of the community have a pecuniary interest, or some interest by which their legal rights or liabilities are affected.”

In Black's Law Dictionary (Sixth Edition), "public interest" is defined as follows :

Public Interest something in which the public, or some interest by which their legal rights or liabilities are affected. It does not mean anything the particular localities, which may be affected by the matters in question. Interest shared by national government....”

In *Mardia Chemical Limited v. Union of India* (2004) 4 SCC 311, the Hon’ble Supreme Court of India while considering the validity of SARFAESI Act and recovery of non-performing assets by banks and financial institutions in India, recognised the significance of Public Interest and had held as under :

“.....Public interest has always been considered to be above the private interest. Interest of an individual may, to some extent, be affected but it cannot have the potential of taking over the public interest having an impact in the socio-economic drive of the country.....”

The Appellant was not able to contest the submissions of the Respondent or to establish the larger public interest in disclosure which outweighs the harm to the protected interests. As regards, the reliance placed by the Appellant on the decision of *B.S. Mathur v. PIO* in W.P. (C) 295 of 2011 dated 03.06.2011, the Commission observed that the said matter pertained to exemption claimed u/s 8 (1) (h) and not Section 8 (1) (j). Moreover, the applicant therein sought information in the context of his own suspension pending disciplinary action whereas in the present instance, the Appellant had sought information regarding a third party.

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)

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रति)

K.L. Das (के.एल.दास)
Dy. Registrar (उप-पंजीयक)
011-26182598/ kl.das@nic.in
दिनांक / Date: 06.08.2018