

CENTRAL INFORMATION COMMISSION
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Decision No. CIC/SG/A/2011/002901+002902/16558
Appeal No. CIC/SG/A/2011/002901+002902

Relevant facts emerging from the Appeal:

Appellant : Mr. Yadwinder Singh
R/o – 34, Sudershan Nagar,
100feet Road,
Amritsar,

Respondent : Public Information Officer
Punjab & Sind bank,
Zonal Office (Urban),
Hall Bazar, Amritsar,

RTI application filed on : 21/06/2011
PIO replied on : 23/06/2011
First Appeal filed on : -----
First Appellate Authority order of : 04/08/2011
Second Appeal received on : 17/10/2011

The information sought: The Appellant wants to information:

1. That the father of the applicants namely Surat Singh opened one account in Punjab & Sind Bank, Branch S.W.Road, Amritsar bearing no.30746 under the name of Parkash Mechanical Works.
2. That applicants are the class 1 legal heirs and being a class one legal heirs they are having a full right to get the information of the above said account under right to information act.
3. That applicant wants to know that how many times and how much amount the father of the applicants S.Surat Singh Withdrawn from the aforesaid account from 31st March 2010 to till date as well as the certified copies of the entries with regard withdrawal of the aforesaid account be provided to applicants.

PIO reply:

(d). information including commercial confidence, trade secrets or intellectual property, property, the disclosure of which would harm the competitive position of a third party.

(J). information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual.

Grounds for the First Appeal:

The appellant was received an unsatisfactory reply from the PIO.

Order of the First Appellate Authority (FAA):

“I have considered the application filed by the appellant; the reply furnished by the CPIO Zonal office (Urban) Amritsar, and the appeal preferred by the appellant. It has been observed that appellant had sought information pertaining to account of Sh. Surat Singh being operated in branch of S.W. Raod Amritsar. The appellants claim to be legal heir of the account holder but have not given any justification for claiming information as a legal heir of the account holder. It is the that the legal heir of the account

holder has right to seek the information of the account but there should be some acceptable justification. Information can not be divulged to the legal heir in the absence of any acceptable justification.

As such in my opinion the CPIO has very rightly denied the information on the ground that the information desired by the appellants is available with the bank under fiduciary relationship and relates to third party having commercial confidence the disclosure of which has no relationship to any public activity or interest, rather disclosure of such type of information would cause unwarranted invasion of the privacy of the individual concerned. Such type of information are exempt from disclosure under section 8(1)(d)(e)&(j) of the RTI act 2005.

Moreover, in terms of banking regulation act 1949, banks are under legal obligation to maintain secrecy of customer's account. As such I uphold the decision of the CPIO.”

Ground of the Second Appeal:

The applicant is not satisfied with the PIO reply and unsatisfactory order was passed by the First Appellate Authority.

Relevant Facts emerging during Hearing:

Both the parties were given an opportunity for hearing. However, neither party appeared. From a perusal of the papers it appears that the appellant had sought information about the transactions of his father with the bank. The Appellant claims that since he has a litigation with his father and is a legal heir he is entitled to all information about his father.

The Bank has denied the information claiming exemption under Section 8(1)(e) of the RTI Act. Section 8(1)(e) of the RTI Act exempts information which is held in a fiduciary capacity by the public authority.

Section 8 (1) (e) of the RTI Act exempts from disclosure ‘information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;’

The traditional definition of a **fiduciary** is a person who occupies a position of *trust* in relation to someone else, therefore requiring him to act for the latter's benefit within the scope of that relationship. In business or law, we generally mean someone who has specific duties, such as those that attend a particular profession or role, e.g. doctor, lawyer, financial analyst or trustee. Another important characteristic of such a relationship is that the information must be given by the holder of information who must have a choice,- as when a litigant goes to a particular lawyer, a customer chooses a particular bank, or a patient goes to particular doctor. An equally important characteristic for the relationship to qualify as a fiduciary relationship is that the provider of information gives the information for using it for the benefit of the one who is providing the information. All relationships usually have an element of trust, but all of them cannot be classified as fiduciary. Information provided in discharge of a statutory requirement, or to obtain a job, or to get a license, cannot be considered to have been given in a fiduciary relationship.

In the instant case very clearly a fiduciary relationship exists, since customers of a Bank come to it because of the implicit trust they have; and they provide information to the Bank for their own benefit. Customers also have a choice of which bank they wish to approach. Hence unless a large public interest is shown the information is exempted from disclosure. In the instant case no larger public interest has been demonstrated.

The mere fact that somebody is a legal heir does not entitle him to get information which the father may not want to divulge.

Decision:

The appeal is disposed.

The information sought by the Appellant is exempted under Section 8(1)(e) of the RTI Act.

This decision is announced in open chamber.

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

Any information in compliance with this Order will be provided free of cost as per Section 7(6) of RTI Act.

Shailesh Gandhi
Information Commissioner
23 December 2011

(In any correspondence on this decision, mention the complete decision number.)(PRE)