

CENTRAL INFORMATION COMMISSION

(Room No.315, B-Wing, August Kranti Bhawan, Bhikaji Cama Place, New Delhi 110 066)

- (1) **File No.CIC/SA/A/2014/000566**
- (2) **File No.CIC/SA/A/2014/000567**
- (3) **File No.CIC/SA/A/2014/000568**
- (4) **File No.CIC/SA/A/2014/000569**

Appellant : **Shri V.K.Jha**

Respondent : **Tis Hazari Court**

Date of hearing : **07-11-2014**

Date of decision : **25-11-2014**

Information Commissioner : **Prof. M. Sridhar Acharyulu**
(Madabhushi Sridhar)

Referred Sections : **Sections 3, 19(3) of the RTI**
Act

Result : **Appeal allowed/**
Disposed of

The appellant is not present at the stipulated time and met the Commission at 1 pm and presented, by which time the Public Authority has left after making presentation before the Commission. The Public Authority is represented by Ms. Harbhajan Kaur, PIO and Mr. Anil Kumar Kawatra, AO(J), Link-1 PIO, Tis Hazari Court, Delhi.

2. The appellant filed the above 4 appeals against the same public authority on the same subject matter and hence they are heard together today.

FACTS:

3. The appellant filed RTI application on 6.1.2014 seeking information with regard to number of accused in the rape cases, who have been charge-sheeted from 1.1.2013 to 31.12.2013 in a given format (as mentioned in the RTI application). The PIO in reply dt 23.1.2014 claimed the exemption under section 7(9) of the RTI and 7(vii) of the Delhi District Court Rules 2008. Being unsatisfied with the information provided, the appellant preferred First Appeal on 5.2.2014. FAA replied on 4.4.2014 that in view of Rule 7 (iv),(vi),(vii) &(ix) of the Delhi District Courts (Right to Information) Rules 2008 and section 7(9) of RTI Act, 2005 information cannot be provided in the format sought by the applicant. Being unsatisfied with the information provided, the appellant preferred Second Appeal before the Commission.

Decision:

4. The respondent officers made their submissions. The appellant has briefed the Commission after the scheduled time of hearing. The respondent officers, Ms. Harbhajan Kaur, PIO and Mr. Anil Kumar Kawatra, Link PIO for PIO(Central) submitted that there are more than 400 files with complaints of rape. It is not possible for them to cull out the information in the format sought by the appellant in his RTI application. They apprehend that in the process the identity of victims of the rape cases might get disclosed. They also stated that according the High Court rules, such kind of files cannot be offered for inspection. They also said that the files were related to providing 'third party' information, the disclosure of which is governed by Section 11 of RTI Act. With a slender staff of 2/3 persons in each Court of the Tis Hazari Courts complex, it is very difficult to analyze the information sought by the appellant. It will divert the entire manpower and staff working there.

5. Heard the submissions from both sides. The appellant wants category-wise information/statistics regarding (1) number of rape cases pending, (2) the number of the accused who are on bail/under custody and (3) number of category-wise nature of cases i.e. (a) rape of the minors, (b) rape of the adults and (c) gang rapes for the period 01-01-2013 to 31-12-2013. The appellant submitted that he had got similar information from Rohini Courts, District North, regarding which he had presented the relevant FAA orders to the Commission. The appellant is a practicing Advocate, an authorized visitor of Tihar Jail, interacted with more than 5000 accused undergoing trial in rape cases and thus claims to be a social activist in public interest. The appellant also submitted that only one special court, i.e. Fast Track Court is entrusted with the trial of rape cases. Hence it is not correct to say that providing the information sought by him, would divert the human resources of the Public Authority. Explaining the need for this information the appellant stated that most of the rape complaints are cooked up, as per his survey, that the woman having sexual relations with a man, is using rape complaint as a weapon when that man refused to marry her. The Commission referred to Section 375, under 'fourthly' clause, if a woman gives consent for sexual intercourse because she believes that he is another man to whom she is or believes herself to be lawfully married, that should be basis for filing a rape complaint. The Commission also referred to provisions of IPC dealing with cheating to deal with such complaints as the woman, having submitted herself on the promise of marriage, and deceived later by the man. The appellant has agreed with the Commission's view, but added that the Media is coming into play immediately and defaming the accused. Appellant stated that he filed PIL against misuse of provisions of rape under amended law (Nirbhaya law) which was withdrawn later and he was compiling information to challenge the misuse of rape provisions.

6. The Commission observes that as the information sought is pertaining to Special Courts located within the Tis Hazari Courts complex only, invoking section 7(9) may not be proper.

7. However, it will be a big task which requires spending of time and energy by the Public Authority, which was also agreed by the appellant. The Commission, therefore, directs the appellant and respondent authority to give and take (respectively) the support in culling out the relevant information through inspection offered to the appellant on any Saturday for 2 hours, with the conditions that none other than appellant should be present at the inspection, with a condition that he should not disclose the names of the victims to any person and the Custodian of records/PIO, Tis Hazari Courts should take complete responsibility for the safety and security of the records offered for inspection. These directions shall be complied within one month from the date of receipt of this order. The Commission also directs the PIO to prepare a list of the cases for the year 2013, category-wise as mentioned above and furnish certified copy of the list to the appellant within one month from the date of receipt of this order.

8. The above four appeals are **disposed** of accordingly.

(M. Sridhar Acharyulu)
Information Commissioner

Authenticated true copy

(Babu Lal)
Deputy Registrar

Address of the parties:

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