

CENTRAL INFORMATION COMMISSION

Room No. 305, 3rd Floor, CIC Bhavan, Baba Gangnath Marg, Munirka,
New Delhi-110067, website:cic.gov.in

Appeal No.:-CIC/LICOI/A/2017/157777-BJ

Appellant : Mr. S. Mabu Batcha,
Respondent : CPIO & Manager (CRM),
LIC of India, "Jeevan Prakash",
Divisional Office, Madurai
Date of Hearing : 23.01.2018
Date of Decision : 24.01.2018

Date of filing of RTI application	09.06.2017
CPIO's response	30.06.2017
Date of filing the First Appeal	04.06.2017
First Appellate Authority's response	29.07.2017
Date of diarised receipt of Appeal by the Commission	22.08.2017

ORDER

FACTS:

The Appellant vide his RTI application sought information on 08 points regarding the details about Mr. M. Poomari and his service records, whether he was working in the office of the Public Authority, reason for termination of his service, whether he had been dismissed, the dismissal order, if any, whether the dismissal order had been challenged in any Court of law and issues related thereto.

The CPIO vide its letter dated 30.06.2017 denied disclosure of information u/s 8(1)(e) & (1)(j) of the RTI Act, 2005. Dissatisfied by the response of the CPIO, the Appellant approached the FAA. The FAA vide its order dated 29.07.2017 upheld the response of the CPIO.

Dissatisfied by non- disposal of Second Appeal by the Commission, the Appellant approached the Hon'ble High Court of Madras in WP no. 19701/2017 whereby, the Hon'ble Court vide its order dated 26.10.2017 directed the Commission to "*dispose of the Appeal filed by the petitioner on merits and in accordance with law, after affording due opportunity of hearing to the petitioner as well as any interested parties within a period of twelve weeks from the date of receipt of this order*". Accordingly, the matter was put before the Commission for priority hearing.

HEARING:

Facts emerging during the hearing:

The following were present:

Appellant: Mr. S. Mabu Batcha through VC;

Respondent: Ms. J. Kamarunnisa, Manager (CRM) through VC;

The Appellant's representative reiterated the contents of the RTI application and stated that no information had been provided to the Appellant, till date. It was further explained that the information was sought regarding one Mr. M. Poomari, who was terminated from the service along with the Appellant. However, the concerned person was reinstated without any departmental investigation/inquiry and had been enjoying all service benefits since then. In its response, the Respondent submitted that the information was sought pertaining to an employee of the Public Authority and since no larger public interest was involved, the same was denied from disclosure u/s 8(1)(e) r/w (j) of the RTI Act, 2005. In addition, it was informed that the reply of the CPIO was also upheld by the FAA vide its order dated 29.07.2017.

The Respondent vide his written submission dated 12.01.2018 reiterated the queries raised by the Appellant and the response furnished by the CPIO/FAA. It was further explained that the Appellant had sought the personal information of one Mr. M. Poomari who had been placed under suspension for certain acts of irregularities and that the disciplinary proceedings against him were under progress. Therefore, the information sought was denied from disclosure as the Appellant was seeking a third party information which was available in fiduciary relationship between the Corporation and the employee and thus the information was exempt from disclosure u/s 8(1)(e) & 8(1)(j) of the RTI Act, 2005.

In this contest, 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 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 High Court of Delhi in the matter of *Municipal Corporation Delhi vs. Rajbir* W.P.(C) 13219/2009 and CM 14393/2009, decided on 24.08.2017 had held as under:

“9.....Respondent has not provided any credible justification for seeking information regarding the personal assets of the MCD employee in question.

10. There can be no doubt that the information sought by respondent is personal information concerning an employee of MCD. Such information could be disclosed only if respondent could establish that disclosure of such information was justified by larger public interest. Even if the PIO was satisfied that disclosure of such information was justified, the PIO was required to follow the procedure given under Section 11 of the Act; that is, the PIO was required to give a notice to the concerned employee stating that he intends to disclose the information and invite the employee to make submissions on the question whether such information ought to be disclosed.”

In Union of India v. R. Jayachandran WP (C) 3406/2012 dated 19.02.2014 the Hon'ble High Court of Delhi had held that passport details, copies of birth certificate and copies of records of educational qualification are personal information, the disclosure of which would cause unwarranted invasion of privacy of individuals unless there was an overbearing public interest in favour of disclosure.

Furthermore, the division bench of the High Court of Delhi in the decision of Harish Kumar v. Provost Marshall cum Appellate Authority, LPA No. 253/2012 dated 30.03.2012 while denying information in a matrimonial dispute had held as under:

“10.....It was further held that when any personal information sought has no nexus with any public activity or interest, the same is not to be provided. Finding the information sought in that case to be even remotely having no relationship with any public activity or interest and rather being a direct invasion in private life of another, information was denied.It was further observed that personal information including tax returns, medical records etc. cannot be disclosed unless the bar against disclosure is lifted by establishing sufficient public interest in disclosure and disclosure even then can be made only after duly notifying the third party and after considering his views. It was yet further held that the nature of restriction on right to privacy is of different order; in the case of private individuals, the degree of protection afforded is greater; in the case of public servants, the degree of protection can be lower, depending upon what is at stake; this is so because a public servant is expected to act for public good in the discharge of his duties and is accountable for them. This Court in Vijay Prakash Vs. UOI AIR 2010 Del 7 also, where information of an estranged wife's service record was sought, held that the transparency values have to be reconciled with legal interest protected by law, such as other fundamental rights, particularly the fundamental right to privacy.”

The Hon'ble Delhi High Court in the decision Vijay Prakash Vs Union of India & Ors (LNIND 2009 DEL 865427) 01.07.2009, W.P (C) no. 803 of 2009 had observed the following in para 20:

*“A bare consideration of the right of individuals, including public servants, to privacy would seem to suggest that privacy rights, by virtue of Section 8(1)(j) whenever asserted, would have to prevail. However, that is not always the case, since the public interest element, seeps through that provision. Thus when a member of the public requests information about a public servant, a distinction must be **made between "official" information inherent to the position** and those that are not, and therefore affect only his/her private life. This balancing task appears to be easy; but is in practice, not so, having regard to the dynamics inherent in the conflict.”*

The Commission also observed that the framework of the RTI Act, 2005 restricts the jurisdiction of the Commission to provide a ruling on the issues pertaining to access/ right to information and to venture into the merits of a case or redressal of grievance. The Commission in a plethora of decisions including Shri Vikram Singh v. Delhi Police, North East District, CIC/SS/A/2011/001615 dated **17.02.2012**, Sh. Triveni Prasad Bahuguna vs. LIC of India, Lucknow CIC/DS/A/2012/000906 dated 06.09.2012, Mr. H. K. Bansal vs. CPIO & GM (OP), MTNL CIC/LS/A/2011/000982/BS/1786 dated 29.01.2013 had held that RTI Act was not the proper law for redressal of grievances/disputes.

The Hon'ble Supreme Court of India in the matter of Union of India v. Namit Sharma in REVIEW PETITION [C] No.2309 OF 2012 IN Writ Petition [C] No.210 OF 2012 with State of Rajasthan and Anr. v. Namit Sharma Review Petition [C] No.2675 OF 2012 In Writ Petition [C] No.210 OF 2012 had held as under:

“While deciding whether a citizen should or should not get a particular information “which is held by or under the control of any public authority”, the Information Commission does not decide a dispute between two or more parties concerning their legal rights other than their right to get information in possession of a public authority. This function obviously is not a judicial function, but an administrative function conferred by the Act on the Information Commissions.”

Furthermore, the High Court of Delhi in the matter of Hansi Rawat and Anr. v. Punjab National Bank and Ors. LPA No.785/2012 dated 11.01.2013 held as under:

*“6. The proceedings under the RTI Act do not entail detailed adjudication of the said aspects. The dispute relating to dismissal of the appellant No.2 LPA No.785/2012 from the employment of the respondent Bank is admittedly pending consideration before the appropriate fora. The purport of the RTI Act is to enable the appellants to effectively pursue the said dispute. The question, as to what inference if any is to be drawn from the response of the PIO of the respondent Bank to the RTI application of the appellants, **is to be drawn in the said proceedings and as aforesaid the proceedings under the RTI Act cannot be converted into proceedings for adjudication of disputes as to the correctness of the information furnished.”***

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.

DECISION:

Keeping in view the facts of the case and the submissions made by both the parties and in light of the afore-mentioned decisions of the Hon'ble Higher Courts, no further intervention of the Commission is required in the matter.

The Appeal stands disposed accordingly.

(Bimal Julka)
Information Commissioner

Authenticated True Copy:

(K.L.Das)
Deputy Registrar