

GIRISH RAMCHANDRA DESHPANDE

v.

CEN. INFORMATION COMMR. & ORS.

(Special Leave Petition (C) No. 27734 of 2012)

OCTOBER 3, 2012

**[K. S. RADHAKRISHNAN AND DIPAK MISRA, JJ.]**

*Right to Information Act, 2005 – s.8(1) – ‘Personal information’ as defined in clause (j) of s.8(1) – Scope and interpretation – Petitioner submitted application before the Regional Provident Fund Commissioner (Ministry of Labour, Government of India) calling for various details relating to third respondent, who was employed as Enforcement Officer in a Sub-Regional Office – The petitioner sought for copies of all memos, show cause notices and censure/punishment awarded to the third respondent from his employer; details of his movable and immovable properties, investments, lending and borrowing from Banks and other financial institutions and also details of gifts stated to have accepted by the third respondent, his family members and friends and relatives at the marriage of his son – Most details sought by the petitioner were contained in the income tax returns of third respondent – Whether the information sought for by the petitioner qualified to be personal information as defined in clause (j) of s.8(1) and were thus exempted from disclosure – Held: 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, such disclosure 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*

- A 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 details disclosed by a person in his income tax returns are “personal information” which stand
- B exempted from disclosure under clause (j) of s.8(1), unless involves a larger public interest and the Central Public Information Officer or the State Public Information Officer or the Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information – In the
- C instant case, the petitioner did not make a bona fide public interest in seeking information, the disclosure of such information would cause unwarranted invasion of privacy of the individual u/s.8(1)(j) – Details called for by the petitioner i.e. copies of all memos issued to the third respondent, show
- D cause notices and orders of censure/punishment etc. qualified to be personal information as defined in clause (j) of s.8(1) – Petition accordingly dismissed.

Central Board of Secondary Education and another v. AdityaBandopadhyay and others (2011) 8 SCC 497: 2011 (11) SCR 1028 – referred to.

**Case Law Reference:**

**2011 (11) SCR 1028 referred to Para 10**

- F CIVIL APPELLATE JURISDICTION : Special Leave Petition (Civil) No. 27734 of 2012.

From the Judgment & Order dated 21.12.2011 of the High Court of Judicature of Bombay Bench at Nagpur in Letters Patent Appeal No. 358 of 2011.

- G A.P. Wachasunder, Jatin Zaveri, Neel Kamal Mishra for the Petitioner.

The following Order of the Court was delivered

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**O R D E R**

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1. Delay condoned.

2. We are, in this case, concerned with the question whether the Central Information Commissioner (for short 'the CIC') acting under the Right to Information Act, 2005 (for short 'the RTI Act') was right in denying information regarding the third respondent's personal matters pertaining to his service career and also denying the details of his assets and liabilities, movable and immovable properties on the ground that the information sought for was qualified to be personal information as defined in clause (j) of Section 8(1) of the RTI Act.

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3. The petitioner herein had submitted an application on 27.8.2008 before the Regional Provident Fund Commissioner (Ministry of Labour, Government of India) calling for various details relating to third respondent, who was employed as an Enforcement Officer in Sub-Regional Office, Akola, now working in the State of Madhya Pradesh. As many as 15 queries were made to which the Regional Provident Fund Commissioner, Nagpur gave the following reply on 15.9.2008:

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"As to Point No.1: Copy of appointment order of Shri A.B. Lute, is in 3 pages. You have sought the details of salary in respect of Shri A.B. Lute, which relates to personal information the disclosures of which has no relationship to any public activity or interest, it would cause unwarranted invasion of the privacy of individual hence denied as per the RTI provision under Section 8(1)(j) of the Act.

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As to Point No.2: Copy of order of granting Enforcement Officer Promotion to Shri A.B. Lute, is in 3 Number. Details of salary to the post

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- A along with statutory and other deductions of Mr. Lute is denied to provide as per RTI provisions under Section 8(1)(j) for the reasons mentioned above.
- B As to Point NO.3: All the transfer orders of Shri A.B. Lute, are in 13 Numbers. Salary details is rejected as per the provision under Section 8(1)(j) for the reason mentioned above.
- C As to Point No.4: The copies of memo, show cause notice, censure issued to Mr. Lute, are not being provided on the ground that it would cause unwarranted invasion of the privacy of the individual and has no relationship to any public activity or interest. Please see RTI provision under Section 8(1)(j).
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- E As to Point No.5: Copy of EPF (Staff & Conditions) Rules 1962 is in 60 pages.
- F As to Point No.6: Copy of return of assets and liabilities in respect of Mr. Lute cannot be provided as per the provision of RTI Act under Section 8(1)(j) as per the reason explained above at point No.1.
- G As to Point No.7: Details of investment and other related details are rejected as per the provision of RTI Act under Section 8(1)(j) as per the reason explained above at point No.1.
- H As to Point No.8: Copy of report of item wise and value wise details of gifts accepted by Mr. Lute, is rejected as per the provisions of

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INFORMATION COMM. R.

- RTI Act under Section 8(1)(j) as per the reason explained above at point No.1. A
- As to Point No.9: Copy of details of movable, immovable properties of Mr. Lute, the request to provide the same is rejected as per the RTI Provisions under Section 8(1)(j). B
- As to Point No.10: Mr. Lute is not claiming for TA/DA for attending the criminal case pending at JMFC, Akola. C
- As to Point No.11: Copy of Notification is in 2 numbers. D
- As to Point No.12: Copy of certified true copy of charge sheet issued to Mr. Lute – The matter pertains with head Office, Mumbai. Your application is being forwarded to Head Office, Mumbai as per Section 6(3) of the RTI Act, 2005. E
- As to Point No.13: Certified True copy of complete enquiry proceedings initiated against Mr. Lute – It would cause unwarranted invasion of privacy of individuals and has no relationship to any public activity or interest. Please see RTI provisions under Section 8(1)(j). F
- As to Point No.14: It would cause unwarranted invasion of privacy of individuals and has no relationship to any public activity or interest, hence denied to provide. G
- As to Point No.15: Certified true copy of second show cause notice – It would cause unwarranted invasion of privacy of individuals and has no relationship to H

A any public activity or interest, hence  
denied to provide.”

B 4. Aggrieved by the said order, the petitioner approached  
the CIC. The CIC passed the order on 18.6.2009, the operative  
portion of the order reads as under:

C “The question for consideration is whether the aforesaid  
information sought by the Appellant can be treated as  
‘personal information’ as defined in clause (j) of Section  
8(1) of the RTI Act. It may be pertinent to mention that this  
issue came up before the Full Bench of the Commission  
in Appeal No.CIC/AT/A/2008/000628 (*Milap Choraria v.*  
D *Central Board of Direct Taxes*) and the Commission vide  
its decision dated 15.6.2009 held that “the Income Tax  
return have been rightly held to be personal information  
exempted from disclosure under clause (j) of Section 8(1)  
of the RTI Act by the CPIO and the Appellate Authority, and  
the appellant herein has not been able to establish that a  
larger public interest would be served by disclosure of this  
information. This logic would hold good as far as the ITRs  
E of Shri Lute are concerned. I would like to further observe  
that the information which has been denied to the appellant  
essentially falls in two parts – (i) relating to the personal  
matters pertaining to his services career; and (ii) Shri  
F Lute’s assets & liabilities, movable and immovable  
properties and other financial aspects. I have no hesitation  
in holding that this information also qualifies to be the  
‘personal information’ as defined in clause (j) of Section  
8(1) of the RTI Act and the appellant has not been able to  
convince the Commission that disclosure thereof is in  
G larger public interest.”

H 5. The CIC, after holding so directed the second  
respondent to disclose the information at paragraphs 1, 2, 3  
(only posting details), 5, 10, 11, 12,13 (only copies of the  
posting orders) to the appellant within a period of four weeks

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from the date of the order. Further, it was held that the information sought for with regard to the other queries did not qualify for disclosure. A

6. Aggrieved by the said order, the petitioner filed a writ petition No.4221 of 2009 which came up for hearing before a learned Single Judge and the court dismissed the same vide order dated 16.2.2010. The matter was taken up by way of Letters Patent Appeal No.358 of 2011 before the Division Bench and the same was dismissed vide order dated 21.12.2011. Against the said order this special leave petition has been filed. B C

7. Shri A.P. Wachasunder, learned counsel appearing for the petitioner submitted that the documents sought for vide Sl. Nos.1, 2 and 3 were pertaining to appointment and promotion and Sl. No.4 and 12 to 15 were related to disciplinary action and documents at Sl. Nos.6 to 9 pertained to assets and liabilities and gifts received by the third respondent and the disclosure of those details, according to the learned counsel, would not cause unwarranted invasion of privacy. D

8. Learned counsel also submitted that the privacy appended to Section 8(1)(j) of the RTI Act widens the scope of documents warranting disclosure and if those provisions are properly interpreted, it could not be said that documents pertaining to employment of a person holding the post of enforcement officer could be treated as documents having no relationship to any public activity or interest. E F

9. Learned counsel also pointed out that in view of Section 6(2) of the RTI Act, the applicant making request for information is not obliged to give any reason for the requisition and the CIC was not justified in dismissing his appeal. G

10. This Court in *Central Board of Secondary Education and another v. Aditya Bandopadhyay and others* (2011) 8 SCC 497 while dealing with the right of examinees to inspect H

A evaluated answer books in connection with the examination  
 conducted by the CBSE Board had an occasion to consider  
 in detail the aims and object of the RTI Act as well as the  
 reasons for the introduction of the exemption clause in the RTI  
 Act, hence, it is unnecessary, for the purpose of this case to  
 B further examine the meaning and contents of Section 8 as a  
 whole.

11. We are, however, in this case primarily concerned with  
 the scope and interpretation to clauses (e), (g) and (j) of Section  
 8(1) of the RTI Act which are extracted herein below:  
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*“8. Exemption from disclosure of information. - (1)*  
 Notwithstanding anything contained in this Act, there shall  
 be no obligation to give any citizen,-

D (e) 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;

E (g) information, the disclosure of which would endanger the  
 life or physical safety of any person or identify the source  
 of information or assistance given in confidence for law  
 enforcement or security purposes;

F (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 unless the Central Public  
 Information Officer or the State Public Information Officer  
 or the appellate authority, as the case may be, is satisfied  
 G that the larger public interest justifies the disclosure of such  
 information.”

12. The petitioner herein sought for copies of all memos,  
 show cause notices and censure/punishment awarded to the  
 third respondent from his employer and also details viz.  
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movable and immovable properties and also the details of his investments, lending and borrowing from Banks and other financial institutions. Further, he has also sought for the details of gifts stated to have accepted by the third respondent, his family members and friends and relatives at the marriage of his son. The information mostly sought for finds a place in the income tax returns of the third respondent. The question that has come up for consideration is whether the above-mentioned information sought for qualifies to be "personal information" as defined in clause (j) of Section 8(1) of the RTI Act.

13. We are in agreement with the CIC and the courts below that the details called for by the petitioner i.e. copies of all memos issued to the third respondent, show cause notices and orders of censure/punishment etc. are qualified to be personal information as defined in clause (j) of Section 8(1) of the RTI Act. 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.

14. The details disclosed by a person in his income tax returns are "personal information" which stand exempted from disclosure under clause (j) of Section 8(1) of the RTI Act, unless involves a larger public interest and the Central Public Information Officer or the State Public Information Officer or the Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information.

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A 15. The petitioner in the instant case has not made a bona fide public interest in seeking information, the disclosure of such information would cause unwarranted invasion of privacy of the individual under Section 8(1)(j) of the RTI Act.

B 16. We are, therefore, of the view that the petitioner has not succeeded in establishing that the information sought for is for the larger public interest. That being the fact, we are not inclined to entertain this special leave petition. Hence, the same is dismissed.

C B.B.B. SLP dismissed