

(2013) 03 DEL CK 0195

In the Delhi High Court

Case No : Writ Petition (C) 1464 of 2013

Ajay Madhusudan Marathe

APPELLANT

Vs

Sanjukta Ray and Others

RESPONDENT

Date of Decision : 05-03-2013

Acts Referred:

Citation : (2014) 2 AD 24

Hon'ble Judges : Rajiv Shakdher, J

Bench : Single Bench

Advocate : Girija Krishan Varma, for the Appellant; Jatan Singh, CGSC for UOI, for the Respondent

Final Decision : Dismissed

Judgement

Rajiv Shakdher, J.

C.M. No. 2771/2013

Allowed subject to just exceptions.

W.P.(C) 1464/2013

1. This writ petition assails the order of the Central Information Commission (in short CIC) dated 19.07.2012 whereby the CIC has sustained the

orders of the CPIO and the First Appellate Authority. The petitioner being aggrieved by the order of the CIC has filed the present writ petition

under Article 226 of the Constitution of India.

2. The writ petition has been filed in the background of the following broad facts:-

3.1 It appears that a newspaper report dated 19.12.2010, appeared in a publication by the name of DNA. The title of the publication was as

follows:-

Army apology to Omar for slamming troop cuts

3.2 In the said newspaper report, there was a reference to the fact that the Chief Minister of Jammu and Kashmir (JandK), Mr. Omar Abdullah,

had sent a letter to the Prime Minister of India complaining against the purported criticism by the Indian Army qua his statement made in public vis-

a-vis deployment of troops in the State of JandK.

3.4 This appears to have triggered the petitioner's request to file an application under the Right to Information Act, 2005 (in short RTI Act). To be

more precise, the application, which is dated 03.12.2010, sought information with respect to the following:-

(i). Certified Copy of the letter written by the Chief Minister of JandK, Sh. Omar Abdullah to the Prime Minister of India;

(ii) The records pertaining to any action, if any, taken on the letter of the Chief Minister of JandK by the Prime Minister of India/the PMO.

3. By order dated 05.01.2011, the CPIO rejected the request of the petitioner. The order claimed exemption from disclosure under the provisions

of Section 8(1)(a) of the RTI Act, on the ground that the information sought related to? security issues?

4. Being aggrieved, the petitioner preferred an appeal with the First Appellate Authority. The said appeal was filed on 09.02.2011. The First

Appellate Authority vide a detailed order dated 16.03.2011, after dealing with the issues raised in the appeal, rejected the appeal and sustained

the order of the CPIO.

5. The petitioner carried the matter in second appeal to the CIC. The CIC, as indicated above, sustained the order of the CPIO and the First

Appellate Authority.

6. The teamed counsel for the petitioner has raised two contentions before me. These being:

(i) The order of the CIC refers to the inputs taken by the authorities below, from the National Security/Secret Establishment. It is submitted that

enquiries of the petitioner has revealed that there is no National Security/Secret Establishment.

(ii) Before accepting the stand taken by the respondents, the CIC ought to have called for information, and in that behalf, was empowered to

exercise powers u/s 18(3) of the RTI Act.

7. I have heard the learned counsel for the petitioner. The information sought pertains to a correspondence which emanated apparently from the Chief Minister of JandK, Sh. Omar Abdullah to the Prime Minister of India. Even according to the petitioner, the said letter pertains to the issue of deployment of defence forces in the State of JandK. There is no gain saying that JandK is a *sugeneris* State within the Union of India in respect of which the respondents would exchange information with State authorities from time having security implications. The background circumstances do point to the fact that the area in respect of which information is sought, could have security implications. The judgment in this regard is best left to the wisdom of the agencies concerned, who are tasked with the responsibility of sifting such information and thereafter arriving at a conclusion one way or the other. In this particular case, the respondents have come to a conclusion that the information sought has security implications. In the absence of any material to the contrary, this court would be slow to interfere with the decision arrived at in that behalf.

8. The argument of the learned counsel for the petitioner that there is a reference in the CICs order to the input sought from experts in the National Security/Secret Establishment when there is no such National Security/Secret Establishment is in my view a submission which misses the core reasoning of the orders of the authorities below.

9. A closer scrutiny of the orders passed by the CIC and those by the authorities below i.e., the First Appellate Authority and the CPIO, would reveal that the expression ""National Security/Secret Establishment"" refers to the security apparatus, which the State has, in the form of various agencies, from which it would have secured inputs before taking a decision on whether or not to action the request of the querist, i.e., the petitioner.

10. Therefore, the other argument also, that the CIC ought to have triggered its power u/s 18(3) of the RTI Act, in my view, is equally misconceived.

11. The factum of existence of an organisation such as the National Security Establishment or National Secret Establishment is neither here nor there. What is important is that inputs have been received from the necessary sources which seem to suggest that divulging information qua the

queries raised by the petitioner would affect the security interest of the country is: in my view good enough to decline information to the petitioner in

terms of the provisions of Section 8(1)(a) of the RTI Act.

12. No other submission is made by the learned counsel for the petitioner to impugn the order of the CIC.

13. Accordingly, the writ petition being bereft of merits, is dismissed. At this stage, Mr. Jatan Singh enters appearance on behalf of the respondent/UOI. He is informed of the order passed today.