

(2018) 07 CHH CK 0003

In the Chhattisgarh High Court

Case No : Writ Petition (C) No.768 of 2013

Chhattisgarh Board Of Secondary Education Raipur

APPELLANT

Vs

Public Information Officer And Ors

RESPONDENT

Date of Decision : 06-07-2018

Acts Referred:

Right to Information Act, 2005 — Section 8(1)(j), 11

Citation : (2018) 07 CHH CK 0003

Hon'ble Judges : SANJAY K. AGRAWAL, J

Bench : Single Bench

Advocate : H.B. Agrawal, Pankaj Agrawal, Priya Mishra, Y.C.??Sharma

Final Decision : Allowed

Judgement

1. Mr. D.S.N. Rao, respondent No.4 herein, invoking the provisions of the Right to Information Act, 2005 (for short, 'the RTI Act'), sought certain

information relating to third party namely Mr. Tapan Chatterjee, Section Officer working in the petitioner Board, relating to his travelling allowance

along with other bills which was not provided by the Public Information Officer, but on appeal being preferred, the first appellate authority partly

allowed the appeal directing disclosure of information except the confidential visit and in further appeal laid by respondent No.4 herein, the

Chhattisgarh State Information Commission directed disclosure of full information as claimed in the application leading to filing of this writ petition by

the Chhattisgarh Board of Secondary Education stating inter alia that such an information directed to be disclosed by the State Information

Commission is protected under Section 8(1)(j) of the RTI Act and, therefore, the order of the State Information Commission affirming the order of the

first appellate authority deserves to be set aside.

2. Though respondent No.4 has appeared, but no return has been filed, however, respondent No.4 has supported the order passed by the State

Information Commission.

3. Mr. H.B. Agrawal, learned Senior Advocate appearing for the petitioner Board, would submit that the information sought for relating to travelling

allowance of the Board Officer is protected by Section 8(1)(j) of the RTI Act as well as the order is hit by the provisions contained in Section 11 of

the RTI Act, as it relates to third party, but no opportunity of hearing has been given to that officer before imparting information relating to said third

party, therefore, the order impugned deserves to be quashed.

4. Miss Priya Mishra, Advocate appearing on behalf of Mr. Y.C. Sharma, learned counsel for respondent No.4, would support the impugned order.

5. None present for respondents No.1 to 3.

6. I have heard learned counsel for the parties present and went through the record with utmost circumspection.

7. In order to resolve the dispute, it would be appropriate to notice Section 8(1)(j) of the RTI Act which reads as follows: -

8. Exemption from disclosure of information: - (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,--

(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 that the larger public interest justifies the disclosure of such information:

Provided that the information, which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.

8. The conflict between the right to personal privacy and the public interest in the disclosure of personal information stands recognized by the

legislature in terms of exempting purely personal information under Section 8(1)(j) of the RTI Act. Under such exemption clause, the disclosure may

be refused if the request pertains to personal information, the disclosure of which has no relation to any public activity or interest or which would cause

unwarranted invasion of the privacy of the individual.

9. A Full Bench of the Delhi High Court in the matter of Secretary General,

Supreme Court of India v. Subhash Chandra Agarwal 2010(1) RCR

(Civil) 764 while examining the scope and ambit of the exemption envisaged under Section 8(1)(j) of the RTI Act had held that personal information

including tax returns/medical records etc., are not liable to be disclosed.

10. Similarly, in the matter of The Registrar, Supreme Court of India v. Subhash Chandra Agarwal and others 2014 SCC OnLine Del 7273 , the

information seeker therein sought records of reimbursement of medical bills of Hon'ble Judges of the Supreme Court which were directed to be given

by the Central Public Information Officer to the Supreme Court, but in writ petition preferred, the Delhi High Court has held that the extent of medical

reimbursement to an individual is also, in one sense, personal information as it would disclose the extent of medical services availed by an individual

and, therefore, unless a larger public interest is shown to be served, there is no necessity for providing such information. The said decision was

affirmed by a Division Bench of the Delhi High Court in the matter of Subhash Chandra Agarwal v. The Registrar,

Supreme Court of India and others 2015 SCC OnLine Del 8861 and Their Lordships held as under: -

10. The information sought by the appellant includes the details of the medical facilities availed by the individual judges. The same being personal

information, we are of the view that providing such information would undoubtedly amount to invasion of the privacy. We have also taken note of the

fact that it was conceded before the learned Single Judge by the learned counsel for the appellant herein that no larger public interest is involved in

seeking the details of the medical facilities availed by the individual judges. It may also be mentioned that the total expenditure incurred for the medical

treatment of the judges for the period in question was already furnished by the CPIO by his letter dated 30.08.2011 and it is not the case of the

appellant that the said expenditure is excessive or exorbitant. That being so, we are unable to understand how the public interest requires disclosure of

the details of the medical facilities availed by the individual judges. In the absence of any such larger public interest, no direction whatsoever can be

issued under Section 19(8)(a)(iv) of the Act by the appellate authorities. Therefore on that ground also the order passed by the CIC dated 01.02.2012

is unsustainable and the same has rightly been set aside by the learned Single

Judge.â??

11. The aforesaid decision of the Division Bench of the Delhi High Court was affirmed by the Supreme Court in the matter of Subhash Chandra

Agarwal v. Registrar, Supreme Court of India and others (2018) 11 SCC 634 and the special leave petition was dismissed.

12. Reverting to the facts of the present case, it is quite vivid that the private respondent has sought information relating to travelling allowance paid to

the employee of the petitioner Board along with other bills which is clearly protected by the provisions contained in Section 8(1)(j) of the RTI Act.

Therefore, the State Public Information Commission is absolutely unjustified in directing providing of such information to the information seeker of

respondent No.1. Therefore, that part of order deserves to be and is accordingly quashed. There is yet one more reason for holding so. The

information relates to Mr. Tapan Chatterjee and the information is third party information within the meaning of Section 11 of the RTI Act. But neither

the first appellate authority nor the State Information Commission has given an opportunity of personal hearing to third party namely Mr. Tapan

Chatterjee before directing to impart information relating to the said third party which is in breach of the provisions contained in Section 11 of the RTI

Act as well as the law declared by the Gujarat High Court in the matter of Reliance Industries Ltd. v. Gujarat State Information Commission and

others⁵.

13. As a fallout and consequence of the aforesaid discussion, the order passed by the State Information Commission dated 26-3-2013 is set aside and

thereby the application for information sought by respondent No.4 relating to travelling allowance and other information relating to third party namely

Mr. Tapan Chatterjee, stands dismissed.

14. The writ petition is allowed to the extent outlined herein-above. There shall be no order as to cost(s).