

(2016) 09 UK CK 0025

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 2489 of 2016.

Jasmeet Kaur - Petitioner @HASH State of Uttarakhand and Others

Date of Decision : 07-09-2016

Acts Referred:

Right To Information Act, 2005 — Section 2(f), Section 2(h)

Citation : (2017) 171 AIC 393 : (2017) AIR(Uttaranchal) 1 : (2016) 119 ALR 329 : (2017) 2 RCRCivil 655 : (2017) 1 UAD 509

Hon'ble Judges : Sudhanshu Dhulia, J.

Bench : Single Bench

Advocate : Mr. Mani Kumar, learned counsel, for the Petitioner; Mr. P.C. Bisht, Advocate, for the State of Uttarakhand

Final Decision : Dismissed

Judgement

Sudhanshu Dhulia, J. - The case of the petitioner before this Court is that her husband (respondent No. 8) is seeking personal information of the petitioner under Right to Information Act, 2005 (in short "RTI Act"), and these information are being given to him by the concerned authority. The contention of the petitioner before this Court is that the information sought by her husband are not covered under the RTI Act, as the information being sought are relating to her salary, posting etc., which are personal in nature.

2. Petitioner is a teacher in a Government Primary School in Udham Singh Nagar. She was married to respondent No. 8 in the year 2005 out of this wedlock was born a child but later her relation with her husband got strained. She is living separately and alleged cruelty, torture and demand of dowry at the hand of her husband and in-laws.

3. Heard Mr. Mani Kumar, learned counsel for the petitioner, Mr. P.C. Bisht, learned Standing Counsel for the State of Uttarakhand and perused the records.

4. Perused the information sought by the informant from the department. The information sought are as to how many teachers are working. The salary being given to the petitioner etc. These information do not appear to be private in

nature in any manner nor are they exempted under the RTI Act. Nothing has been shown by the petitioner, which may suggest that the information sought by the respondent, relating to the petitioner, is covered under Section 8(1)(j) of RTI Act. Under the RTI Act, the "information" has been defined under Section 2 (f) of the RTI Act, which reads as under:-

""information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force."

5. A bare perusal of the aforesaid definition shows that the "information" has been widely defined. On a request these information have to be supplied to the persons seeking such an information by a public authority. The "public authority" has also been defined under Section 2(h) of the RTI Act, which reads as under:-

""public authority" means any authority or body or institution of self-government established or constituted:-

- (a) by or under the Constitution;
- (b) by any other law made by Parliament;
- (c) by any other law made by State Legislature;
- (d) by notification issued or order made by the appropriate Government, and includes any-
- (i) body owned, controlled or substantially financed;
- (ii) non-Government Organisation substantially financed, directly or indirectly by funds provided by the appropriate Government."

6. It cannot be anybody's case that a Government authority in Government schools does not come under the definition of "public authority". The only exception as to the information is given under the Act under Section 8 of the RTI Act, which is an exemption from disclosure of information.

Section 8 of the RTI Act reads as under:-

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

- (a) information, disclosure of which would pre-judicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;
- (b) information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;
- (c) information, the disclosure of which would cause a breach of privilege of

Parliament or the State Legislature;

(d) information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;

(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;

(f) information received in confidence from foreign government;

(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;

(h) information which would impede the process of investigation or apprehension or prosecution of offenders;

(i) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers:

Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over: Provided further that those matters which come under the exemptions specified in this section shall not be disclosed;

(j) information which relates to personal information the disclosure of which has not 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.

(2) Notwithstanding anything in the Official Secrets Act, 1923 (19 of 1923) nor any of the exemptions permissible in accordance with sub-section (1), a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.

Provided that where any question arises as to the date from which the said period of twenty years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in this Act."

7. We have already seen the nature of information sought by respondent No. 8 (husband of the petitioner) and it is not covered under any of the exemption given under Section 8 of the RTI Act.

8. In view thereof, no interference can be made in the present writ petition. The writ petition is totally misconceived and is hereby dismissed.