

(2016) 08 OHC CK 0019
In the Orissa High Court
Case No : W.P.(C) No.17197 of 2015

Kailash Chandra Panda

APPELLANT

Vs

Central Information Commission

RESPONDENT

Date of Decision : 19-08-2016

Acts Referred:

Right To Information Act, 2005 — Section 3, Section 4(c), Section 4(i)(b)

Citation : (2017) 123 CutLT 236 : (2016) 2 ILRCuttack 836

Hon'ble Judges : S.C. Parija, J.

Bench : Single Bench

Advocate : M/s. Kshirod Ku. Rout, T.K. Nayak, J. Naik and S.K. Rout, Advocates, for the Petitioner; M/s. J.K. Panda, S. Panigrahi and P.K. Das, Advocates, for the Opposite Parties

Final Decision : Dismissed

Judgement

S.C. Parija, J. - This writ petition has been filed for quashing of the order of the Central Information Commission dated 13.2.2015 (Annexure-4) and to direct the Central Public Information Officer (opposite party no.3) to provide the required information sought for by the petitioner.

2. The brief facts of the case is that the petitioner, who is an employee of Bharat Sanchar Nigam Limited ("BSNL" for short), made an application under Section 6 of the Right to Information Act, 2005 ("RTI Act" for short) to the Central Public Information Officer (opposite party no.3), seeking information as detailed in Annexure-1 to the application, which reads as under :

"I. How many prepaid mobile connections are working in Odisha Circle as on 31.12.2013.

II. Kindly provide the particulars of prepaid connections working in Odisha Circle without data entry (Name & Address etc.) as on 31.12.2013. (To be provided in DVD).

Sl.

Mobile No. Activation

Date of SIM card issued to customer by whom

III. Kindly provide particulars of activation of "Hello Tune" on prepaid mobiles in the month of October 2013 as per following format (To be provided in DVD).

Sl.

Mobile No.

Date of Activation "Hello Tune"

Activated of by whom

Amount deducted

IV. Kindly provide the stay particulars of all the staff working in the G.M. (CMTS) unit as per the following format.

Sl.

Name

Desgn

Station Date since working"

3. No action having been taken by the opposite party no.3 for supply of the information sought for, the petitioner preferred appeal under Section 19(1) of the RTI Act before the 1st appellate authority (opposite party no.2), praying for a direction to the opposite party no.3 to furnish the information sought for by the petitioner. As the 1st appellate authority did not take any steps in the matter, the petitioner filed second appeal under Section 19(2) of the RTI Act, before the Central Information Commission (opposite party no.!), who vide its order dated 13.2.2015 (Annexure-4), has held that the information sought for by the petitioner is not in larger public interest and therefore, the same cannot be provided. The operative portion of the order reads as under :

"The appellant's representative has not established any larger public interest, which would warrant a directive to the respondent to collect and compile the information, sought by him, even at the cost of diverting their resources from day to day work. In the above circumstances we are unable to provide any relief."

4. Learned counsel for the petitioner submits that the impugned order passed by the Central Information Commission is wholly improper and illegal, inasmuch as, there is no provision in the RTI Act for rejecting the application in larger public interest.

5. Learned counsel for the petitioner with reference to Sections 3 and 4 of the RTI Act submits that the petitioner has the right to have access to the

information sought for by him and the opposite party no.3 has the corresponding obligation to provide all such information and therefore, the rejection of the petitioner's application on the plea that the same is not in larger public interest cannot be sustained in law.

6. Learned counsel for the opposite party no.3 with reference to the counter affidavit submits that the information sought for by the petitioner is huge and voluminous, contained in several files and it is not possible to compile the details of information in the format designed by the petitioner, without disproportionately diverting the resources of the public authority. It is submitted that the information sought for by the petitioner is unrelated to transparency and accountability and/or eradication of corruption and that such information has been sought for, only to harass the public authority. It is further submitted that the petitioner is an employee of BSNL and has a service related grievance and he has been filing numerous RTI applications in the garb of seeking information, only to settle personal scores and to put the concerned officers to unnecessary harassment.

7. It is accordingly submitted that the Central Information Commission having considered the matter in its proper perspective and come to find that the information sought for by the petitioner is not connected with any larger public interest and providing such huge and voluminous information would disproportionately divert the resources of the public authority, the same cannot be faulted.

8. The RTI Act was enacted in order to ensure smoother, greater and more effective access to information and provide an effective framework for effectuating the right to information recognised under Article 19 of the Constitution. The Preamble to the Act declares the object sought to be achieved by the RTI Act thus :

"An Act to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public. authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto.

Whereas the Constitution of India has established democratic Republic;

And whereas democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed;

And whereas revelation of information in actual practise is likely to conflict with other public interests including efficient operations of the Governments, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information;

And whereas it is necessary to harmonise these conflicting interests while preserving the paramountcy of the democratic ideal;"

9. In *Central Board of Secondary Education and another v. Aditya Bandopadhyay and others*, (2011) 8 Supreme Court Cases 497, the apex Court while analysing the provisions of sections 3 and 8 of the RTI Act, has come to hold that the said RTI Act seeks to bring a balance between the provisions of Section 3, which empowers the citizens with the right to information and Section 8, which is in the nature of an exception to Section 3, as harmony between them is essential for preserving democracy. While one is to bring about transparency and accountability by providing access to information under the control of public authorities, the other is to ensure that the revelation of information, in actual practise, does not conflict with the other public interests, which include efficient operation of the Governments, optimum use of limited fiscal resources and preservation of confidentiality of sensitive information.

Accordingly, the Hon'ble Court has proceeded to observe as under :

"Indiscriminate and impractical demands or directions under the RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counterproductive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquillity and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritizing "information furnishing", at the cost of their normal and regular duties."

10. One of the objects of democracy is to bring about transparency of information to contain corruption and bring about accountability. But achieving this object does not mean that other equally important public interests including efficient functioning of the governments and public authorities, optimum use of limited fiscal resources, preservation of confidentiality of sensitive information, etc. are to be ignored or sacrificed. The object of the RTI Act is to harmonise the conflicting public interests, that is, ensuring transparency to bring in accountability and containing corruption on the one hand, and at the same time ensure that the revelation of information," in actual practise, does not harm or adversely affect other public interests which include efficient functioning of the governments, optimum use of limited fiscal resources and preservation of confidentiality of sensitive information, on the other hand.

11. Similar views have been expressed by the apex Court in *Institute of Chartered Accountants of India v. Shaunak H. Satya and others*, (2011) 8 SCC 781, wherein the Hon'ble Court has held that it is necessary to make a distinction in regard to information intended to bring transparency, to improve accountability and to reduce corruption, falling under Sections 4(1)(b) and (c) of the RTI Act and other information which may not have a bearing on accountability or reducing corruption. The competent authorities under the RTI Act will have to maintain a proper balance so that while achieving transparency, the demand for information does not reach unmanageable proportions affecting other public interests, which include efficient operation of public authorities and the Government, preservation of confidentiality of sensitive information and optimum use of limited fiscal resources.

12. In the present case, from the nature of information sought for by the petitioner as detailed above, it is quite evident that the same is irrelevant, vague and vexatious, wholly unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption. Any direction to provide the details sought for by the petitioner would be counterproductive, as it will adversely affect the efficiency of the administration and result in "disproportionately diverting the resources of the public authority.

For the reasons as afore-stated, I do not find any infirmity in the impugned order so as to warrant any interference.

The writ petition being devoid of merits, the same is accordingly dismissed. No costs.