

(2010) 01 AP CK 0027

In the Andhra Pradesh High Court

Case No : Writ Petition No. 443 of 2010

Kunche Durga Prasad and Another

APPELLANT

Vs

Public Information Officer, Oil and Natural Gas Corporation
Ltd. and Others

RESPONDENT

Date of Decision : 20-01-2010

Acts Referred:

Constitution of India, 1950 — Article 19, 19(1), 21
Right to Information Act, 2005 — Section 19, 6, 6(2), 8, 8(1)

Citation : AIR 2010 AP 105 : (2010) 2 ALD 843

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

**Advocate : D. Ramalinga Swamy, for the Appellant; Pannam Ashok Goud,
Assistant Solicitor General, for the Respondent**

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J.—Oil and Natural Gas Corporation Limited (hereinafter referred to as "ONGC") issued advertisement dated 3-1-2008 inviting applications for appointment to the post of "Field Officer". The 1st petitioner and several others applied for the said post. In the selection, 285 candidates were selected and appointed, whereas the 1st petitioner was not selected. The 1st petitioner and 16 others filed W.P. No. 17355 of 2008 before this Court challenging the selection.

2. The 2nd petitioner is a practising advocate. On behalf of the 1st petitioner he filed an application under the Right to Information Act, 2005 (hereafter referred to as "the Act"), before the 1st respondent seeking information on three aspects namely, (1) the number of SC candidates selected, (2) the name of the authority who selected the candidates; and (3) the date of issue of posting order to 285 candidates and their dates of joining. He has also made a request to furnish copies of the qualification certificates submitted by the selected candidates. Through letter dated 13-2-2009, the 1st respondent furnished information on the

three aspects referred to above. So far as furnishing of copies of qualification certificates is concerned, he took the view that it is exempted u/s 8(1)(j) of the Act. Aggrieved thereby, the petitioners filed an appeal before the Central Information Commission--the 3rd respondent who passed an order dated 21-5-2009 upholding the stand taken by the 1st respondent. Hence, the writ petition.

3. Sri. D. Ramalinga Swamy, learned Counsel appearing for the petitioners, submits that the 1st respondent was under an obligation to furnish copies of the qualification certificates furnished by the selected candidates. He contends that the certificates referred to above do not fall within the ambit of Section 8(1)(j) of the Act and that there was no justification for the respondents in not acceding to the request of the petitioners.

4. The learned Assistant Solicitor General, on the other hand, submits that the application was submitted by the 2nd petitioner and, so far as he is concerned, the certificates of qualifications, pertaining to the selected candidates, do not have traces of public activity and interest, and that furnishing of the same would certainly invade the privacy of the concerned individuals.

5. The 1st petitioner was not selected as "Field Officer". As property advised, himself and 16 other aggrieved persons filed W.P. No. 17355 of 2008 challenging the action of ONGC in not selecting them and the same is still pending.

6. Neither the 1st petitioner nor any other unsuccessful applicants have filed application before the 1st respondent pointing out any grievance. The 2nd respondent, who is an advocate, filed the application seeking information as referred to above. The 1st respondent furnished information on 13-2-2009 wherein it was mentioned that 73 SC candidates were selected; not an individual officer but a committee has selected the candidates; and a list indicating the particulars of posting orders of all the 284 candidates was furnished. So far as the request to furnish the copies of qualification certificates submitted by the selected candidates is concerned, the 1st respondent took the view that such an information is exempted u/s 8(1)(j) of the Act. The 2nd petitioner filed an appeal u/s 19 of the Act before the 3rd respondent. The latter upheld the view taken by the 1st respondent. Therefore, it needs to be seen as to whether the information sought for by the 2nd petitioner i.e. furnishing copies of the qualification certificates of the selected candidates is not exempted u/s 8(1)(j) of the Act.

The said provision 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,--

....

(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.

7. From a perusal of the above, it is evident that the exemption gets attracted under two circumstances namely, (a) if the information is personal in nature and has no relationship to any public activity or interest, and (b) furnishing of the same would cause unwarranted invasion of privacy of an individual. These exemptions are, however, subject to the opinion that may be formed by the Central or State Public Information Officer or the appellate authority that the larger public interest justifies the disclosure of such information.

8. It is not out of place to mention that Parliament was very much aware of the necessity to strike a decent balance between making the information available to the citizenry, to promote public interest and efficiency, on the one hand, and, preservation of confidentiality of sensitive information, on the other hand. The statement of objectives of the Act emphasizes the need to harmonize these two conflicting interests.

9. The right to information is treated as a facet of the fundamental rights guaranteed under Articles 19 and 21 of the Constitution of India. That, however, would be in respect of the information which relates to the functioning of the Government and public activity. The information which relates to an individual cannot be compared with, or equated to, the one of public activity. On the other hand, disclosure of the information in relation to an individual, even where it is available with the Government, may amount to invasion of his privacy or right to life which in turn is also referable to Article 21 of the Constitution of India. It is also possible to treat the privilege of an individual not to be compelled to part with any information available with him, as an essential part of the Article 19(1) (a) of the Constitution of India. Even while exercising his right of freedom of speech and expression, an individual can insist that any information relating to him cannot be furnished to others unless it is in the realm of public activity or is required to be furnished under any law, for the time being in force.

10. The 2nd petitioner is not able to state as to how the copies of qualification certificates of the selected candidates have any characteristics of public activity or partake public interest. The aggrieved parties including the 1st petitioner have already approached this Court by filing W.P. No. 17355 of 2008. Such of the selected candidates who are impleaded in that writ petition would certainly have to defend themselves. Any direction to the respondents herein to furnish the testimonials of the selected candidates to the petitioners would have its own impact upon the pleadings or the stands which the parties to the pending proceedings may take. It may appear to be enterprising or tempting for any one to have access to every possible information for an individual whether it relates

to an individual or not. The freedom of an individual to have access to the information cannot be projected to such an extent as to invade the rights of others. Further, Section 6(2) of the Act cannot be read in isolation, nor can be interpreted to mean that an applicant can seek, every information relating to any one. Just as he cannot be compelled to divulge the purpose for which he needs the information, he must respects the right of the other man to keep the facts relating to him, close to his chest, unless compelled by law to disclose the same. It is relevant to mention that even where an individual is placed under obligation to speak, the law can only draw adverse inference from his failure or refused to speak but cannot go further to invade his privacy or private life.

11. The learned Counsel for the petitioners submits that the view taken by the respondents conflicts with the very spirit of Section 6(2) of the Act. This contention cannot be accepted for the simple reason that Section 8 of the Act, on one hand, and the Section 6 of the Act, on the other hand, operate in different and distinct fields. Though Section 6(2) of the Act enables every individual to seek information without disclosing the purpose, the information that can be furnished to him is subject to the restrictions placed u/s 8 of the Act. Therefore, no exception can be taken to the impugned orders.

12. Hence, the writ petition is dismissed. There shall be no order as to costs.