

(2019) 08 CHH CK 0004
In the Chhattisgarh High Court
Case No : Writ Petition (Art. 227) No. 19 Of 2017

Public Information Officer	Vs	APPELLANT
Arun Kumar Gupta And Anr		RESPONDENT

Date of Decision : 05-08-2019

Acts Referred:

Right To Information Act, 2005 — Section 6, 6(1), 8, 8(1)(e), 8(j), 8(1)(j), 19(8)(a)(i)
Constitution Of India, 1950 — Article 219, 227

Citation : (2019) 08 CHH CK 0004

Hon'ble Judges : Sanjay K. Agrawal, J

Bench : Single Bench

Advocate : Prafull N. Bharat, Shyam Sunder Lal Tekchandani

Final Decision : Allowed

Judgement

Sanjay K. Agrawal, J

1. The jurisdiction of this Court under Article 227 of the Constitution of India has been invoked by the Public Information Officer of the High Court of Chhattisgarh (for short, 'this Court') calling in question legality, validity and correctness of the order passed by respondent No.2 herein (Chhattisgarh State Information Commission) by which the Chhattisgarh State Information Commission (for short, 'the Information Commission') has set aside the order passed by the Public Information Officer as well as by the appellate authority and directed under Section 19(8)(a)(i) of the Right to Information Act, 2005 (for short, 'the Act of 2005') to provide the information sought for by the information seeker / respondent No.1 herein, dubbing the order as arbitrary and contrary to the provisions contained in Section 8(1)(e) of the Act of 2005.

2. The information seeker / respondent No.1 herein made an application to the Public Information Officer of this Court invoking Section 6(1) of the Act of 2005 seeking copy of oath taken and subscribed by Hon'ble Mr. Justice Prashant Kumar Mishra and Hon'ble Mr. Justice N.K. Agarwal (now His Lordship has demitted the

office). The Public Information Officer rejected the said application in light of exemption provided under Section 8(1)(e) of the Act of 2005 which was affirmed by the first appellate authority in an appeal preferred by respondent No.1 herein by order dated 3-12-2015. However, the second appellate authority / the Information Commission interfered with the order passed by the two authorities as stated above and directed for furnishing the information sought for by respondent No.1 herein i.e. copy of oath taken and subscribed by the two Hon'ble Judges of this Court as mentioned above under Sections 8 and 19(8)(a) (i) of the Act of 2005. Feeling aggrieved against that order this writ petition has been filed in which the order passed by the Information Commission i.e. the second appellate authority has been called in question principally on the ground that it is violative of Section 8(1)(e) of the Act of 2005 and further on the ground that the two authorities had already satisfied that the larger public interest is not involved warranting the disclosure of such information and the Information Commission ought not to have interfered with by the orders of the two authorities (that is the Public Information Officer and the appellate authority).

3. No return has been filed by the respondents though opportunities were granted to them.

4. Mr. Prafull N. Bharat, learned counsel appearing for the petitioner, would submit that the learned Information Commission is absolutely unjustified in granting the application filed by respondent No.1 / information seeker by setting aside the concurrent finding recorded by the two authorities in which it has been clearly held that such an information is clearly barred from disclosure of such information and is exempted by the provisions contained in Section 8(1)(e) or 8(1)(j) of the Act of 2005, as such, the impugned order directing the disclosure of such information being contrary to law is liable to be set aside.

5. No one has appeared for respondent No.1, though served with notice of this writ petition.

6. Mr. Shyam Sunder Lal Tekchandani, learned counsel appearing for respondent No.2, would support the impugned order and submit that the impugned order is strictly in accordance with law and no interference is called for in exercise of jurisdiction under Article 227 of the Constitution of India.

7. I have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the record with utmost circumspection.

8. The question for consideration would be, whether respondent No.1 is entitled to get the copy of oath taken and subscribed by the Hon'ble Judges of this Court which they have taken before they have entered upon their office as prescribed under Article 219 of the Constitution of India according to the form set out in Clause VIII of Third Schedule of the Constitution of India or it is protected under the provisions contained in either Section 8(1)(e) of the Act of 2005 or Section 8(1)(j) of the Act of 2005?

9. In order to decide the plea raised at the Bar, it would be appropriate to notice the provisions contained in Sections 8(1)(e) and 8(1)(j) of the Act of 2005 which read as follows: -

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

(a) xxx xxx xxx

(b) xxx xxx xxx

(c) xxx xxx xxx

(d) xxx xxx xxx

(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) xxxxxx xxx

(g) xxxxxx xxx

(h) xxxxxx xxx

(i) xxxxxx xxx

(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."

10. From a careful perusal of the aforesaid provision, Section 8(1)(j) of the Act of 2005, it is quite vivid that the exemption would attract in two contingencies 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. However, these exemptions are subject to the opinion that may be formed by the Central or State Public Information Officer or the appellate authority, as the case may be, that the larger public interest justifies the disclosure of such information.

11. 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 Act of 2005. 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.

12. In the matter of *Girish Ramchandra Deshpande v. Central Information Commr.* (2013) 1 SCC 212, the petitioner therein sought certain information regarding an employee who was employed as an Enforcement Officer in Sub-Regional Office, Akola. The information sought for was not granted by the authorities including the High Court against which the SLP was taken in which Their Lordships of the Supreme Court dismissed the appeal upholding the order passed by the High Court and held as under: -

"12. We are in agreement with the CIC and the courts below that the details called for by the petitioner i.e. copies of all memos issued to the third respondent, show-cause notices and orders of censure/punishment, etc. are qualified to be personal information as defined in clause (j) of Section 8(1) of the RTI Act. The performance of an employee/officer in an organisation is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression 'personal information', the disclosure of which has no relationship to any public activity or public interest. On the other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual. Of course, in a given case, if the Central Public Information Officer or the State Public Information Officer or the appellate authority is satisfied that the larger public interest justifies the disclosure of such information, appropriate orders could be passed but the petitioner cannot claim those details as a matter of right.

13. The details disclosed by a person in his income tax returns are 'personal information' which stand exempted from disclosure under clause (j) of Section 8(1) of the RTI Act, unless involves a larger public interest and the Central Public Information Officer or the State Public Information Officer or the appellate authority is satisfied that the larger public interest justifies the disclosure of such information."

13. Similar is the proposition of law laid down by the Supreme Court in the matter of *R.K. Jain v. Union of India* and another (2013) 14 SCC 794. The judgment of the Supreme Court in *Girish Ramchandra Deshpande* (supra) and *R.K. Jain* (supra) has been followed recently by the Supreme Court in the matter of *Canara Bank Rep. By its Deputy Gen. Manager v. C.S. Shyam* and another (2017) SCC Online SC 1023 and it was held as under:-

"14. In our considered opinion, the aforementioned principle of law applies to the facts of this case on all force. It is for the reasons that, firstly, the information sought by respondent No.1 of individual employees working in the Bank was personal in nature; secondly, it was exempted from being disclosed under Section 8(j) of the Act and lastly, neither respondent No.1 disclosed any public interest much less larger public interest involved in seeking such information of

the individual employee and nor any finding was recorded by the Central Information Commission and the High Court as to the involvement of any larger public interest in supplying such information to respondent No.1.

15. It is for these reasons, we are of the considered view that the application made by respondent No.1 under Section 6 of the Act was wholly misconceived and was, therefore, rightly rejected by the Public Information Officer and Chief Public Information Officer whereas wrongly allowed by the Central Information Commission and the High Court."

14. Reverting to the facts of the present case in light of the aforesaid principles of law in the aforesaid judgments, it is quite vivid that respondent No.1 herein sought information about the copy of the oath taken and subscribed by the two Hon'ble Judge of this Court under Article 219 of the Constitution of India which they have taken before they have entered upon their office according to the form set out in Clause VIII of Third Schedule of the Constitution. Respondent No.1 herein in the application filed under Section 6(1) of the Act of 2005 had only stated that he wish to have the copy of the oath taken and subscribed by the Hon'ble Judges of the High Court which is exempted from being disclosed under Section 8(1)(j) of the Act of 2005, as respondent No.1 herein did not disclose any public interest much less larger public interest involved in seeking such information of the Hon'ble Judges in the said application nor was any finding recorded by the second appellate authority i.e. the Chhattisgarh State Information Commission as to the involvement of any larger public interest in directing supply of such information to respondent No.1 under Section 19(8)(a) (i) of the Act of 2005. The application as filed by respondent No.1 is blissfully silent in that regard. There is no averment in the application, how the public interest requires disclosure of such information and the application is silent in this regard.

15. Therefore, in the considered opinion of this Court, the application filed by respondent No.1 under Section 6 of the Act of 2005 was bereft and fails to fulfill the requirement under Section 8(1)(j) of the Act of 2005 and thus, grant of such information by the learned Information Commission simply holding that oath is taken by the Hon'ble Judges in public in presence of respectable persons as such, the information sought for is granted under Sections 8 and 19(8)(a)(iv) of the Act of 2005, runs contrary to the law and is liable to be quashed.

16. Accordingly, the impugned order passed by respondent No.2 directing furnishing of information with regard to the oath taken and subscribed by the two Hon'ble Judges of this Court, is hereby quashed.

17. The writ petition is allowed to the extent sketched herein-above. No order as to cost(s).