(2014) 08 DEL CK 0149

In the Delhi High Court

Case No : Writ Petition (Civil) 5478/2014

Rekha Chopra APPELLANT

Vs

State Bank of Bikaner RESPONDENT

Date of Decision : 27-08-2014

Acts Referred:

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

Citation : (2015) 1 AD 468 : (2015) 215 DLT 679 : (2015) 1 RCR(Civil) 827

Hon'ble Judges : Vibhu Bakhru, J

Bench : Single Bench

Advocate : Rajesh Yadav and Ruchira, Advocate for the Appellant; Rajiv Aggarwal and S. Sethi, Advocate for the Respondent

Judgement

Vibhu Bakhru, J.

CM No. 10876/2014

Allowed, Subject to all Just exceptions. The application stands disposed of.

W.P.(C) 5478/2014

1. The present petition has been filed by the petitioner impugning an order dated 13.06.2014 passed by the Central Information Commissioner (hereinafter referred to as ''CIC'') , whereby the appeal preferred by the petitioner against an order dated 03.04.2013 passed by the First Appellate Authority had been rejected. The order dated 03.04.2013 had in turn rejected the petitioner''s appeal against an order dated 11.02.2013 passed by respondent bank''s Central Public Information Officer (hereinafter referred as ''CPIO'') . By the said order, the CPIO of respondent bank refused to provide the information sought by the petitioner in respect of its customer inter alia on the ground that the same was held by the bank in a fiduciary capacity and was exempted under Section 8 of the Right to Information Act, 2005 (hereinafter referred to as the ''RTI Act'') .

2. Briefly stated, the facts are that on 18.01.2013, the petitioner applied under

the RTI Act to the CPIO of the respondent bank seeking the following information with respect to Manraj Charitable Trust - a society registered under the Societies Registration Act, 1860:-

"a) Entire record pertaining to opening of the Bank Account by MCT including the a/c opening form.

b) All subsequent documents, resolutions, authority letters, submitted with the Bank.

c) The actual date of submission/receipt of letter dated 14/8/99 in and by the bank."

3. Thereafter, the petitioner sent another application on 22.01.2013 seeking further information. By its order dated 11.02.2013, the CPIO of the respondent bank declined to provide the said information on the ground that information pertaining to its customers was exempt from the provisions of the RTI Act by virtue of clauses (d) , (e) and (j) of Section 8(1) of the RTI Act. Aggrieved by the denial of the said information, the petitioner preferred an appeal before the First Appellate Authority, which was also dismissed by an order dated 03.04.2013. The decision of the First Appellate Authority was carried in appeal before the CIC.

4. By the impugned order, the CIC accepted the submissions of the respondent bank that the information in respect of its customers was exempt form the RTI Act as the same was held by the bank in a fiduciary capacity and, accordingly, rejected the appeal of the petitioner.

5. The learned counsel for the petitioner contended that the petitioner was the secretary of Manraj Charitable Trust and as an office bearer was entitled to information relating to the said Trust. It was further submitted that Manraj Charitable Trust was a charitable institution and, therefore, larger public interest would warrant disclosure of information by the respondent bank. The learned counsel for the petitioner relied on the decision of the Supreme Court in Bihar Public Service Commission Vs. Saiyed Hussain Abbas Rizwi and Another, to contend that even information held in fiduciary capacity can be disclosed by a Competent Authority if a larger public interest so warrants.

6. The respondent bank claimed that as per its records, the petitioner was neither reflected as a Secretary of the Trust nor was authorised to operate the bank accounts. It was further stated that there were disputes pending between the petitioner and her relatives. And, the information sought by the petitioner was not for any larger public interest but, apparently, to assist her in the litigation pending between the petitioner and her family members.

7. The controversy raised in the present petition is whether a bank is obliged to disclose information pertaining to its customers in response to an application made under the RTI Act.

8. The Bank, while dealing with its customers, acts in various capacities.

Undisputedly, the relationship between a customer and a banker requires trust, good faith, honesty and confidence. Black''s law dictionary defines fiduciary relationship as "one founded on trust or confidence reposed by one person in the integrity and fidelity of another." Fiduciary relationship in law is ordinarily a confidential relationship; one which is founded on the trust and confidence. In this view, a banker would undoubtedly, stand in a fiduciary capacity in respect of transactions and information provided by its customers.

9. The Supreme Court in Bihar Public Service Commission Vs. Saiyed Hussain Abbas Rizwi and Another, examined the term "fiduciary relationship" in context of Section 8 of the RTI Act and held as under:-

"The term "fiduciary relationship" is used to describe a situation or transaction where one person places complete confidence in another person in regard to his affairs, business or transactions. This aspect has been discussed in some detail in the judgment of this Court in the case of Central Board of Secondary Education. Section 8(1) (e) , therefore, carves out a protection in favour of a person who possesses information in his fiduciary relationship. This protection can be negated by the competent authority where larger public interest warrants the disclosure of such information, in which case, the authority is expected to record reasons for its satisfaction. Another very significant provision of the Act is 8(1) (j) . In terms of this provision, 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 would fall within the exempted category, unless the authority concerned is satisfied that larger public interest justifies the disclosure of such information. It is, therefore, to be understood clearly that it is a statutory exemption which must operate as a rule and only in exceptional cases would disclosure be permitted, that too, for reasons to be recorded demonstrating satisfaction to the test of larger public interest."

10. The records of the bank do not indicate the petitioner to be a secretary of the said Trust or its authorized officer. Thus, the bank has treated the petitioner as a stranger, and in my view, rightly so. The respondent bank is thus not obliged to provide any information to the petitioner in respect of the account of the said trust.

11. Admittedly, the petitioner has certain pending disputes with regard to the affairs of Manraj Charitable Trust and a suit (being CS(OS) No.3203/2012) is stated to have been filed by the petitioner in this Court in her capacity as Secretary of the Trust in question. In this view, the submission of the petitioner that the respondent bank is liable to disclose the information sought in larger public interest, also cannot be accepted.

12. The present petition is, accordingly, without merit and is dismissed.