
(2015) 05 UK CK 0041
In the Uttarakhand High Court
Case No : Special Appeal No. 62 of 2010

State Consumer Disputes Redressal Commission	APPELLANT
Vs	
Uttarakhand State Information Commission and Others	RESPONDENT

Date of Decision : 26-05-2015

Acts Referred:

Constitution of India, 1950 — Article 343, 345, 346, 347, 348
Right to Information Act, 2005 — Section 2(f), 2(g), 2(h), 2(i), 2(j)

Citation : AIR 2015 Utt 106

Hon'ble Judges : K.M. Joseph, C.J. and V.K. Bist, J.

Bench : Division Bench

Advocate : T.A. Khan, Senior Advocate assisted by Aditya Kumar Arya, Advocate, for the Appellant; H.M. Bhatia, Amicus Curiae, for the Respondent

Final Decision : Allowed

Judgement

K.M. Joseph, C.J.

1. Appellant is the writ petitioner and is State Consumer Disputes Redressal Commission of Uttarakhand (hereinafter referred to as the writ petitioner). The writ petition was filed by the writ petitioner seeking the following relief:

"a) To issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 01.12.2009 passed in Appeal No. A-1778/2009; Smt. Harshita v. Public Information Officer and another (ANNEXURE - XII to the writ petition)."

The order passed by the appellant was sought by the third respondent in the translated version, i.e. though the order was pronounced in English, the third respondent wanted the said order to be translated into Hindi version in Devanagari script. An Application was moved by the third respondent under Section 6 of the Right to Information Act, 2005 (hereinafter referred to as the Act) with a request to supply the copy of the order in Hindi, as, according to the third respondent, she was not well versed with English language. This was not

complied with and the Appeal filed before the Appellate Authority was unsuccessful. It is thereupon that she filed a further appeal before the first respondent. The State Information Commission, by the impugned order dated 16.10.2009, it appears, had sought the opinion of the Law Secretary of the State as to what is the language of various courts (barring the High Court) in the State of Uttarakhand. The response was that the language of the State was Hindi and the language of the subordinate courts within the State of Uttarakhand was also Hindi. The Information Commission imposed a cost of Rs. 6,600/- on the appellant. This, we find from the translated version of the order supplied to us, is on the finding that the information sought could not be provided at the stage of Public Information Officer and the Departmental Appeal Officer and the same was provided only after the intervention of the Commission. In fact, we notice that, in the order, it is also mentioned that the third respondent informed the first respondent that in the matter, from the stage of the Public Information Officer upto the stage of Commission, she has spent her time, labour and excessive amount. It is the said order, which is challenged. The learned Single Judge dismissed the writ petition. In doing so, he has employed the following reasons. The learned Single Judge finds that on the basis of the inquiry conducted by the first respondent, it came to understand that the language of the lower courts was Hindi and the Information Commission came to the conclusion that the order was liable to be given in Hindi and, by not giving the order in Hindi, the rights of the third respondent have been violated. The learned Single Judge referred to Articles 343 , 345 and 348 of the Constitution of India. He also referred to Section 2(h) , (f), (i), (j) and Section 4 of the Act. According to him, as Section 4 contemplates dissemination of information, which should be given in a language, which the person understands, there is violation of Section 4 of the Act and the Constitution of India. The Public Authorities, like the appellant, are obliged to provide information in Hindi. It is for the reason that the information was sought and by somebody, who pointed out that she does not understand English language, it was all the more reason why the information sought for must be supplied in Hindi. Reliance placed on Article 348 of the Constitution by the appellant was found to be misconceived as it is found that the petitioner is not the High Court. Equally misplaced, according to the learned Single Judge, was the argument of the appellant apparently that the President of the appellant forum is a retired Judge, who has written the order in English, which he was entitled to. Hindi is the most commonly spoken language in the State of Uttarakhand,. it is noted and the appellant is an instrumentality of the State. On the basis, therefore, it is also found that the language spoken by people is representative of their culture and identity and it is also vital for the identity of the nation as well as of the province and one should take pride in the language, and Hindi is not only the official language of the Union under Article 343 of the Constitution of India, it is also the official language of the State of Uttarakhand. 60 years since the enforcement of the Constitution of India, there should be no doubt in anyone's mind, much less in the mind of a public authority regarding the status of the official language in the State, the learned Single Judge

observes. Consequently, the writ petition was dismissed upholding the impugned order. The appellant was also asked to supply the translated copy of the order passed by the appellant within two months from the date of the judgment. It is feeling aggrieved by the same that the Appeal has been filed.

2. We heard Sri T.A. Khan, learned senior counsel for the appellant.

3. In view of the importance of the question, we appointed Sri H.M. Bhatia as the Amicus Curiae in this case to assist the Court and we also, therefore, heard the learned Amicus Curiae.

4. Learned senior counsel for the appellant would submit that on facts itself, the learned Single Judge was in error in that the appellant had never supplied the translated version of the order sought for by the third respondent in Hindi. What was supplied was the judgment, as sought for, which was written in English. The Appeal carried by the third respondent was unsuccessful. In the State Commission, contrary to the finding of the learned Single Judge, the State Commission has actually not found that the appellant was liable to provide the order by translating it. We have already referred to what the Commission has, in fact, ordered. This aspect is also raised by the learned Amicus Curiae Sri H.M. Bhatia. In fact, the Amicus Curiae would point out that it is on the invitation of the appellant that the learned Single Judge has proceeded to go into the question whether the order should be given in Hindi or not. In this regard, he would refer to the averments made in the writ petition to the extent that the appellant had not provided the order by translating it in Hindi. We find merit in this contention and, therefore, on this short ground, the Appeal is liable to be allowed as the question, which the court should have posed, was whether in the facts and circumstances, the first respondent was correct in imposing the cost of Rs. 6,600/-.

5. At any rate, we are not resting the overturning of the judgment on the said premise only. This is for the reason that the learned Amicus Curiae would submit that the learned Single Judge, who pronounced the judgment, has taken the contrary view in another case, which related to a request for translation of an order of the High Court of Uttarakhand and, therein, the learned Single Judge has taken the view that there is no obligation to provide translation of a judgment in Hindi and he refers to the judgment of this High Court in the case of High Court of Uttarakhand Vs. State Information Commissioner and Others, . Learned Amicus Curiae would also submit that the Madras High Court has referred to the impugned judgment in the case of The Registrar General Vs. R.M. Subramanian and The Registrar, .

6. Sri T.A. Khan, learned senior counsel for the appellant would submit that this is a case, which must be decided with reference to the provisions of the Act, which, in fact, learned Single Judge has also referred. The error, which the learned Single Judge has committed, is going beyond the scope of the Act and travelling through the provisions of the Constitution and other provisions, which

are not relevant. The learned Amicus Curiae would also submit that the learned Single Judge should have confined himself to the definition of the word "Information" and the obligation of the Authorities under Right to Information Act to provide information as it is as defined in Section 2(i) .

7. This is a case, where the impugned order was passed on the strength of a proceeding, which commenced under Section 6 of the Act. The purport of the Act can be found in Section 3 of the Act, which provides that subject to the provisions of the Act, all citizens shall have the right to information. At this juncture itself, we may refer to the definition of word "Information" provided in Section 2(f) of the Act, which reads as under:

"2(f) "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;"

8. "public authority" has been defined in Section 2(h) of the Act. The same reads as follows:

"2(h) "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;"

9. "record" has been defined in Section 2(i) of the Act. The same reads as follows:

"2(i) "record" includes--

(i) any document, manuscript and file;

(ii) any microfilm, microfiche and facsimile copy of a document;

(iii) any reproduction of image or images embodied in such microfilm (whether enlarged or not); and

(iv) any other material produced by a computer or any other device;"

10. Finally, "right to information" has been defined in Section 2(j) . The same

reads as under:

"2(j) "right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to--

- (i) inspection of work, documents, records;
- (ii) taking notes, extracts, or certified copies of documents or records;
- (iii) taking certified samples of material;
- (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;"

11. We must necessarily refer to Section 4 of the Act, which reads as under:--

"4. Obligations of public authorities.--(1) Every public authority shall -

(a) maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under this Act and ensure that all records that are appropriate to be computerised are, within a reasonable time and subject to availability of resources, computerised and connected through a network all over the country on different systems so that access to such records is facilitated;

(b) publish within one hundred and twenty days from the enactment of this Act,--

- (i) the particulars of its organisation, functions and duties;
- (ii) the powers and duties of its officers and employees;
- (iii) the procedure followed in the decision making process, including channels of supervision and accountability;
- (iv) the norms set by it for the discharge of its functions;
- (v) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;
- (vi) a statement of the categories of documents that are held by it or under its control;
- (vii) the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;
- (viii) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;

- (ix) a directory of its officers and employees;
 - (x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;
 - (xi) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;
 - (xii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;
 - (xiii) particulars of recipients of concessions, permits or authorisations granted by it;
 - (xiv) details in respect of the information, available to or held by it, reduced in an electronic form;
 - (xv) the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;
 - (xvi) the names, designations and other particulars of the Public Information Officers;
 - (xvii) such other information as may be prescribed, and thereafter update these publications every year;
- (c) publish all relevant facts while formulating important policies or announcing the decisions which affect public;
- (d) provide reasons for its administrative or quasi-judicial decisions to affected persons.

(2) It shall be a constant endeavour of every public authority to take steps in accordance with the requirements of clause (b) of sub-section (1) to provide as much information suo motu to the public at regular intervals through various means of communications, including internet, so that the public have minimum resort to the use of this Act to obtain information.

(3) For the purposes of sub- section (1), every information shall be disseminated widely and in such form and manner which is easily accessible to the public.

(4) All materials shall be disseminated taking into consideration the cost effectiveness, local language and the most effective method of communication in that local area and the information should be easily accessible, to the extent possible in electronic format with the Central Public Information Officer or State Public Information Officer, as the case may be, available free or at such cost of the medium or the print cost price as may be prescribed."

12. Section 6 of the Act provides for making a request for obtaining information. The same reads as under:

"6. Request for obtaining information.--(1) A person, who desires to obtain any information under this Act, shall make a request in writing or through electronic means in English or Hindi in the official language of the area in which the application is being made, accompanying such fee as may be prescribed, to--

(a) the Central Public Information Officer or State Public Information Officer, as the case may be, of the concerned public authority;

(b) the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, specifying the particulars of the information sought by him or her:

Provided that where such request cannot be made in writing, the Central Public Information Officer or State Public Information Officer, as the case may be, shall render all reasonable assistance to the person making the request orally to reduce the same in writing.

(2) An applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him.

(3) Where an application is made to a public authority requesting for an information,--

(i) which is held by another public authority; or

(ii) the subject matter of which is more closely connected with the functions of another public authority,

the public authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer:

Provided that the transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application."

13. Section 7 of the Act deals with the manner in which the requests are disposed of.

14. Section 8 of the Act provides for exemption from disclosure of information, which is not relevant for our purpose.

15. If we were to confine ourselves to the definition of word "Information" as contained in the Act, it becomes clear that it means only the matters, which are referred to in the said Clause, which means any material in any form, including records, documents, papers, inter alia, relating to any private body which can be accessed by a public authority under any other law for the time being in force. The record includes, no doubt, any document, manuscript and file. The words "Right to Information", no doubt, are more widely defined as it includes not only the right to information accessible under the Act, which is held by or under the

control of any public authority and it also includes the right to inspect the work, documents and records; it also includes the right to take notes, extracts, or certified copies of documents or records; taking certified copy of material and also obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device, and it is thereafter, that the right is conferred on all the citizens to information. The public authorities are under obligations, which are referred to in Section 4 . They include the obligation to provide as much information suo motu to the public at regular intervals through various means of communications, including internet. The reason for this salutary provision is that the public would, having regard to the information published suo motu, have the minimum resort to the use of the Act to obtain information. Therefore, the whole object of the legislature would appear to be that India being a democratic nation governed by the rule of law, which has a written Constitution, which provides for fundamental rights, should be as transparent as possible. There can be, no doubt, that the Act has been a revolutionary piece of legislation, which has gone a long way in ensuring transparency in public affairs, which is absolutely necessary for avoiding arbitrariness, unfairness, corruption, and lethargy in taking appropriate decisions by public authorities. Sub-section (4) of Section 4 , no doubt, provides that the materials shall be disseminated considering the cost effectiveness, the local language and also the most effective method of communication. We have already referred to Section 4(b) . It refers, inter alia, to a statement of the categories of documents that are held by it or under its control; details in respect of the information, available to or held by it, reduced in an electronic form and the particulars of recipients of concessions, permits or authorizations granted by it; a directory of its officers and employees among various other forms of information. It also provides for dissemination of any other information, as may be prescribed, which means prescribed by Rules as provided in Section 2(g) of the Act. We are of the view that the learned Single Judge has erred in relying on this Section in deciding a question, which fell for decision under the provision of Section 6 of the Act. Section 6 of the Act deals with a request for obtaining information being made by a person. It, no doubt, provides for a request in writing or through electronic means in English or Hindi in the official language of the area and specifying the particulars of the information sought by him, but it is relevant to immediately notice that the request can only be for the information sought by him. The Section does not expressly contemplate the providing of the information in a language of the choice of the applicant. The Section also nowhere commands providing a translation of the information in Hindi. What is contemplated is only giving of the information, which a person is otherwise legally entitled to. If the information falls in the excepted category, it may be open to the authorities to refuse the information. As far as the word "Information" is concerned, we have already referred to the definition of the word "Information", as also, the definition of the word "record" and "right to information". In this case, information sought was the judgment pronounced by

the appellant. The information that was available with the appellant was the judgment, which was pronounced in English language. A judgment is a "document" and it falls under the definition of the word "information". The word "record" is defined as including document. Information, which was actually sought, was an English translation of the said judgment. We are of the view that on the conspectus of the Act as such, when an Application is made under Section 6 of the Act, the duty, which is cast on the authority, is to provide the information as it is and, that there cannot be a duty to translate information in the form of a document into any other language. In this context, we must remind ourselves that a translation may very often produce a distortion of the information itself. The writing of the judgment in English by the President of the State Consumer Disputes Redressal Commission is not forbidden; it is permitted. Therefore, the judgment was pronounced in English language, which was absolutely legal. The information sought by the third respondent in the form of a translated version of the judgment in English could not possibly have been given as we would think that it is not contemplated under the definition of the word "information" "record" and "right to information", nor is it contemplated under Section 6 of the Act. Though a request may be made either in English language or in Hindi language, but the information must be the "information" as defined in the Act. In the case of judgment or order, which is written in one language, it is not open to a person to seek a translation even if it is in Hindi language for the reasons, which we have already adverted to.

16. We are of the view that having taken this view, there is nothing in the provisions of the Constitution, which detracts from the view we have taken. Article 343 of the Constitution of India which deals with the official language of the Union reads as follow:

"343. Official language of the Union- (1) The official language of the Union shall be Hindi in Devanagari script.

The form of numerals to be used for the official purposes of the Union shall be the international form of Indian numerals.

(2) Notwithstanding anything in clause (1), for a period of fifteen years from the commencement of this Constitution, the English language shall continue to be used for all the official purposes of the Union for which it was being used immediately before such commencement:

Provided that the president may, during the said period, by order authorise the use of the Hindi language in addition to the English language and of the Devanagari form of numerals in addition to the international form of Indian numerals for any of the official purposes of the Union.

(3) Notwithstanding anything in this article, Parliament may by law provide for the use, after the said period of fifteen years, of-

(a) the English language, or

(b) the Devanagari form of numerals, for such purposes as may be specified in the law."

17. Article 345 of the Constitution falls in Part - XVII, which deals with the language of the Union. It, undoubtedly, reads as follows:

"345. Official language or languages of a State.--Subject to the provisions of articles 346 and 347, the Legislature of a State may by law adopt any one or more of the languages in use in the State or Hindi as the language or languages to be used for all or any of the official purposes of that State:

Provided that, until the Legislature of the State otherwise provides by law, the English language shall continue to be used for those official purposes within the State for which it was being used immediately before the commencement of this Constitution."

18. It may be true that the official language of the State of Uttarakhand is Hindi, but it is wholly irrelevant in dealing with a request for information under Section 6 of the Act, for the reasons which we have already adverted to. We did not think that anything turns on Article 348 of the Constitution, which reads as follows:

"348. Language to be used in the Supreme Court and in the High Courts and for Acts, Bills, etc. -(1) Notwithstanding anything in the foregoing provisions of this Part, until Parliament by law otherwise provides-

(a) all proceedings in the Supreme Court and in every High Court,

(b) the authoritative texts-

(i) of all Bills to be introduced or amendments thereto be moved in either House of Parliament or in the House or either House of the Legislature of a State,

(ii) of all Acts passed by Parliament or the Legislature of a State and of all Ordinances promulgated by the President or the Governor [***] of a State, and

(iii) of all orders, rules, regulations and bye-laws issued under this Constitution or under any law made by Parliament or the Legislature of a State shall be in the English language.

(2) Notwithstanding anything in sub-clause (a) of clause (1), the Governor [***] of a State may, with the previous consent of the President, authorize the use of the Hindi language, or any other language used for any official purposes of the State, in proceedings in the High Court having its principal seat in that State:

Provided that nothing in this clause shall apply to any judgment, decree or order passed or made by such High Court.

(3) Notwithstanding anything in sub-clause (b) of clause (1), where the Legislature of a State has prescribed any language other than the English language for use in Bills introduced in, or Acts passed by, the Legislature of the State or in Ordinances promulgated by the Governor [***] of the State or in any

order, rule, regulation or bye-law referred to in paragraph (iii) of that sub-clause, a translation of the same in the English language published under the authority of the Governor [***] of the State in the Official Gazette of that State shall be deemed to be the authoritative text thereof in the English language under this article."

19. Likewise, we are unimpressed by the reference to Article 350 , which only provides that every person shall be entitled to submit a representation for redress of any grievance to any officer or authority of the Union or of a State in any of the languages used in the Union or in the State, as the case may be. We would think that we are not concerned with the right of a person to make a representation and we are called upon to decide the question, when the judgment is pronounced in English by the appellant, whether it is obliged to provide translation of the order under the Act? We are of the clear view that none of the constitutional provisions should have been invoked by the learned Single Judge, as was sought to be done. The fact that the third respondent did not understand English language is stated as a reason by the learned Single Judge for having persuaded the public authority, like the appellant, to provide the translated version. We are of the view that the fact that the applicant under Section 6 does not know the language, in which the information under the Act is couched (a judgment written in English) cannot be a basis to provide him with information in a translated form. In this context, we have already adverted to the fact that inaccuracy could flow from any attempted translation. If information is sought by every person, in a translated version, one can imagine the financial and other hurdles that the Authority would also to be put to, apart from the more important objection that the Act itself does not contemplate providing of information in the translated version. The fact that the people of Uttarakhand mostly speak Hindi is hardly a reason to tinker with the actual duty to be performed by the Authority in respect of a request under Section 6 of the Act. We are dealing with a Central legislation and Parliament, having chosen to define the word "information" in the manner it has done, as also, the right to information and has not contemplated giving of information a judgment in the translated version, we would think that the learned Single Judge was in error in pronouncing the impugned judgment.

20. In fact, we notice that the learned Single Judge, in respect of the request for translated copy of the judgment of this Court, has taken the view that it is not contemplated. We would approve the said view. In that judgment (High Court of Uttarakhand Vs. State Information Commissioner and Others, , the learned Single Judge has held as follows:

"3. The brief facts of the case are that respondent No. 3 sought three informations from the High Court vide his application dated 4.6.2009. The first information sought was as to whether certain persons (who have been named in the application, let us say, A, B, C, D, E, F & G) have anything to do with the case No. 4774 (M/s) of 2001 (Old No. 11980 of 1991). The second information

sought was as to whether the Administrative authorities and other authorities can interfere with an order of the High Court which was passed in the year 1991 and if they do so whether it would amount to contempt, etc. The third information sought was as to how much time does a case which is pending in a land dispute normally takes before it is decided by a High Court. This application was in Hindi and respondent No. 3 specifically requested vide a note in the application that the entire information should be given to him in "Hindi".

21. Thereafter, the learned Single Judge proceeded to take the view that the order of the Commission was justified and the writ petition was dismissed. Thereafter, the learned Single Judge proceeded to state as follows:

"34. It is, however, made clear that in case respondent No. 3 also seeks any "record" in the matter they will be supplied only in language they are available or "held" by the High Court. In other words, if the record itself is in English, the same need not be translated in Hindi. Only the "question answer form", and the reply given by the Public Information Officer have to be in Hindi, when asked for.

35. This aspect needs clarification. It is true that the proceedings in a High Court are in English language. Therefore by and large "records" are in English. Yet is the public information officer also bound to supply the "record" in "Hindi", even when it is specifically requisitioned though originally the records are in English. The answer to this would be in negative. This is not the intent or the mandate of the Act. This is for two reasons. Firstly, the definition of "right to information" itself states that a citizen has access to information which is "held" by or under the control of any public authority. Obviously since the "information" in the form of a record is "held" by the public authority in English, it has to be supplied in that language. Secondly, even Section 4(4) of the Act, which has been referred above, states that the obligation of the Public Authority is to "disseminate" "information" in local language but with considerations of "local language" as well as "cost effectiveness" alongwith other consideration. The cost of translation of all record in "Hindi" would be immense and would be practically not possible. As such the records can only be given as they exist. The public authority i.e. High Court in the present case, is not obliged to translate records into Hindi, and furnish them even when requisition is so made."

We would think that as far as the facts of this case is concerned, we will only advert to the pronouncement of the law as contained in paragraphs 34 and 35. We would think that we are in agreement with the same as it expounds the law correctly as it is in accordance with what we have laid down. Resultantly, we are of the view that the appellant has made out a case for interference in the matter and the judgment of the learned Single Judge cannot be sustained. Accordingly, we allow the Appeal, set aside the judgment of the learned Single Judge and allow the writ petition. Consequently, the impugned order will stand set aside. We place on record our sense of appreciation for Sri H.M. Bhatia, the learned Amicus Curiae, who has provided considerable light in the resolution of this vexed dispute.