

(2014) 12 CAL CK 0096
In the Calcutta High Court
Case No : Writ Petition No. 1360 of 2011

The Central Bureau of Investigation		APPELLANT
	Vs	
The Central Information Commission		RESPONDENT

Date of Decision : 15-12-2014

Acts Referred:

Right to Information Act, 2005 — Section 6, 6(2), 8, 8(1)(g), 8(1)(j)

Citation : AIR 2015 Cal 21 : (2016) 332 ELT 781 : (2015) 2 RCR(Civil) 942

Hon'ble Judges : Nishita Mhatre, J

Bench : Single Bench

Advocate : Bimal Kumar Das and Nadeem Akhtar Khan, Advocate for the Appellant

Judgement

Nishita Mhatre, J.—The Central Bureau of Investigation has preferred the present writ petition against the decision of the Central Information Commission appointed under the Right to Information Act, 2005 (hereinafter referred to as the "RTI Act"). The Commissioner has allowed the appeal of the respondent No. 2 and directed the CBI to furnish the information sought by him.

2. The respondent No. 2 is an Advocate. He submitted an application under section 6 of the RTI Act on 26.7.2010 to the Central Public Information Officer, SP/CBI, Port Blair which was transferred to CPIO/CBI/ACB/Kolkata Port Blair Branch. The information sought by him is as follows:-

(a) Photocopy of the Case Diary and the supplementary case diaries in connection with the case No. RC 07 of 2008.

(b) Photocopy of the visitors Register of SP, ACB, CBI, Kolkata for the dates i.e. 18 to 20 February 2008 and 7 to 9 April 2008.

(c) Photocopy of GD Register of SP, ACB, CBI, Kolkata office for the period of 18 to 20 February 2008 and 8 to 10 April 2008.

(d) Photocopy of receipt Diary register of SP, ACB, CBI, Kolkata office for the

dates of 10 & 11 April 2008 and Dispatch Diary register of 11 & 12 April 2008.

(e) Photocopy of Trap Money Register of SP, ACB, CBI, Kolkata office for the period of 1st April 2008 to 30 April 2008.

(f) Photocopy of details of Expenditure incurred on the hiring of vehicle by CBI officers of ACB, Kolkata in connection with the investigation at Port Blair during period 1st April 2008 to 30 June 2008 along with the photocopies of the bills claimed

(g) Photocopy of details of rewards given to the CBI officers of ACB, Kolkata for carrying out successful traps indicating the name & designation of the Officer and the amount of reward for the period of 1st April 2008 to 30 June 2008.

(h) Photocopy of details CBI officers whose name was placed in the list of Doubtful integrity during period of Jan 2006 to till date.

(i) Photocopy of details of CBI officers against whom the complaint were registered or contemplated and inquiry conducted or in progress.

3. The information sought was refused by the Central Public Information Officer on 30.08.2010. The respondent No. 2, being aggrieved by that decision, approached the Appellate Authority under the RTI Act. The Appellate Authority being the Joint Director, CBI, Kolkata dismissed the appeal on 27.9.2010 with respect to points (a) to (g). The concerned Central Public Information Officer was directed to provide the information in respect of the points (h) and (i). This information was denied by claiming exemption under section 8(1)(j) of the Act. Being aggrieved by that order, respondent No. 2 preferred an appeal on 21.10.2010 to the Second Appellate Authority.

4. The Central Information Commission who is the 2nd Appellate Authority passed an order on 13.07.2011 after hearing the parties. The appeal filed by the respondent No. 2 was allowed and the Central Bureau of Investigation was directed to provide the information sought by the respondent No. 2.

5. Aggrieved by that decision the Central Bureau of Investigation has filed the present petition.

6. The learned counsel Mr. B.K. Das appearing for the Central Bureau of Investigation submitted that any disclosure as sought by the respondent No. 2 would jeopardize the officers and other informants. He further submitted that the Public Information Officer i.e. S.P. CBI, ACB, Kolkata had claimed exemption under section 8(1)(g) and (h) of the RTI Act. He urged that the disclosure of any personal information which has no relationship to any public activity, would invade the privacy of an individual and therefore, the Central Public Information Officer had rightly desisted from providing such information.

7. The learned counsel submitted further that the Joint Director who was the First Appellate Authority had confirmed the order of the Central Public Information Officer. According to him, the order of the CIC does not take into

account the fact that the respondent No. 2 has shown no reason for demanding the information. The learned counsel submitted that when such reason is not disclosed or is not germane such information is not required to be supplied to the applicant. He further submitted that section 8 of the RTI Act exempts disclosure of information and therefore, the Central Bureau of Investigation is not obliged to give any information which would fall within the exemptions carved out under section 8 of the RTI Act. According to the learned counsel, the information sought by the respondent No. 2 would jeopardize the pending proceedings and also would invade the privacy of the officers concerned.

8. The CIC on considering the submissions made before it has allowed the appeal directing the Public Information Officer, Central Bureau of Investigation, Port Blair to supply the information with regard to points (a), (c) and (e) after severing the names and other particulars of persons, the disclosure of which would endanger their life or physical safety or identify the source of information or assistance given in confidence for law enforcement or security purposes. The information requested under points (b), (h) and (i) has also been directed to be supplied.

9. In my view, the CIC has passed a well reasoned order. There is no reason why there should be any opposition to furnish the information sought in point (a), especially when the case is not pending and the final report has been submitted. As regards points (b) and (i) with respect to the visitors register, and details of CBI officers against whom the complaints were registered or contemplated and inquiry conducted or in progress, do not in any manner fall within the exemptions carved out under section 8 of the RTI Act.

10. The query (b) with regard to the visitors register is with respect to certain dates. It has been argued by Mr. Das that informants could also have met the SP and their names would be in the register. The information sought is not with respect to the reason why a person had visited the SP but only the names. Providing such information would not throw any light on whether a person who visits the SP is an informant. It would not put the person's life or his physical safety in danger.

11. As regards point (h) in respect of the CBI officers whose names are placed in the list of doubtful integrity, in my view it would not be appropriate to supply this information. This is because unless there is a departmental inquiry held against that officer or he is facing a punishment or his name has been incorporated in the list after having faced the punishment, the disclosure of his name would mean that he would be considered to be tainted without being afforded a hearing. The officer concerned may at a later stage be exonerated and therefore, supplying his name on the basis of a doubt would certainly cast a shadow on his integrity and consequently his career. Mr. Tabraiz did not insist on the information sought under query (h). However, the information sought under query (i) can certainly be supplied to the respondent No. 2 as rightly held by the CIC.

12. The CIC, in fact, has taken care in not directing disclosure of all material in

respect of points (a), (c) and (e) and has directed that such information should be supplied after severing the names and other particulars of the persons, the disclosure of which would endanger their life or physical safety or identify the source of information or assistance given in confidence for law enforcement or security purposes.

13. With respect to points (d), (f) and (g), the information was supplied to the respondent No. 2 as directed by the lower appellate authority and therefore, the CIC was not required to pass any order on those three points.

14. The submission of Mr. Das that the applicant seeking information under the RTI Act is required to furnish reasons for the request to the Public Information Officer is incorrect. Section 6(2) of the RTI Act clearly provides that the applicant making a request for information is not required to give any reason for seeking the information or any other personal details except those that may be necessary for contacting him. Therefore, this argument of Mr. Das is untenable.

15. Mr. Tabraiz, the learned counsel appearing for the respondent No. 2 has brought to my notice the decisions in *Treesa Irish Vs. The Central Public Information Officer, The Appellate Authority, The Central Information Commission and Union of India (UOI)*, , and *Bhagat Singh Vs. Chief Information Commissioner and Others*, . He has also relied on a judgment of the Uttarakhand High Court in Special Appeal No. 18 of 2011 decided on 20.07.2011 in the case of *Om Prakash Vs. Uttarakhand Information Commission* and another.

16. In the judgment of the Kerala High Court in *Treesa Irish (supra)*, the learned Single Judge of that Court has opined that information sought under the Act cannot be refused if no public interest is involved. In the case of personal information, if it has no relationship to any public activity or interest, the Information Officer has the discretion to refuse to disclose the same, if larger public interest does not justify the disclosure of such information. The Delhi High Court and the High Court of Uttarakhand in the aforesaid judgements have taken the same view.

17. I am in respectful agreement with the view expressed in these judgments.

18. The CIC while passing the impugned order in the present case has observed that the information sought is not personal information but it pertains to individual CBI officers in respect of their public duty and therefore, the Central Bureau of Investigation has been directed to supply such information.

19. The reluctance of the CBI to supply the requisite information is palpable. The exemption claimed under section 8 is unjustified and has no bearing on the information required. As a last attempt to avoid furnishing the information it was argued that the CBI does not fall within the clutches of the RTI Act in view of the notification issued on 9.6.2011 amending the second schedule to the Act. This submission is without merit. The application was filed under the RTI Act before the amendment and therefore, it would not be governed by it.

20. Accordingly, the petition is dismissed. The order of the CIC is confirmed.