

HIGH COURT OF DELHI

BENCH : HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

Date of Decision: 26th April 2024

W.P.(C) 2830/2016 & CM APPLs. 8881/2019, 8882/2019, 8883/2019, 8884/2019 & 26838/2019, CRL.M.A. 28268/2018

INDIAN INSTITUTE OF FOREIGN TRADEPETITIONER

VERSUS

KAMAL JIT CHIBBERRESPONDENT

Legislation:

Article 226 of the Constitution of India

Right to Information Act, 2005, Sections 2(j)(i), 5(4), 7, 7(9), 8, 9

Subject: Challenge to the order of the Central Information Commissioner (CIC) requiring the petitioner to provide requested information under the Right to Information Act, 2005, due to concerns about voluminous nature of information requested by the respondent, a former employee.

Headnotes:

Petitioner Challenge to CIC Order – Petitioner, an educational institute, challenges CIC's directive to provide comprehensive information to respondent as per RTI Act, arguing information requested is voluminous and burdensome – High Court upholds CIC order, rejects petitioner's argument that compiling information would be overly burdensome, emphasizes RTI Act's objective to facilitate transparency - [Paras 1, 5-7, 9, 11-14].

Right to Information – CIC found petitioner deprived respondent of benefits of RTI Act by not providing requested information – Directed provision of complete information within 30 days, dismissed petitioner's argument on information volume as adding unofficial exemption to RTI Act - [Paras 5, 7, 13-14].

Judicial Review – High Court finds no valid exemption under Section 8 of RTI Act applies to requested information, dismisses writ petition, underscores mandate and spirit of RTI Act for transparency and accountability in public institutions - [Paras 12-15].

Decision – Writ petition dismissed, no interference with CIC's order, emphasis on non-existence of conflict between rights to information inspection and obtaining copies under RTI Act - [Para 16].

Referred Cases: None mentioned specifically.

Representing Advocates:

Petitioner: Mrs. Ginny J. Rautray and Mr. Navdeep Singh, Advocates.

the Order of the Central Information Commissioner directing the Petitioner to provide the complete and categorical information to the Respondent No.1 herein as per the provisions of the Right to Information Act, 2005 within 30 days from the date of receipt.

The Petitioner is an educational institute set up by the Government of India to promote and professionalize the international trade and business of the country. Respondent No.1 is a former employee of the Petitioner and Respondent No.2 is a Quasi-judicial body.

The facts, in brief leading up to the filing of the present writ petition are that on 24.07.2013, respondent 1 filed an RTI application with the PIO, Indian Institute of Foreign Trade seeking the following information :

“Photocopy of 3 page advice rendered by Ministry of Commerce as stated in letter dated 18.7.2013

Copy of rule on protection of salary of the senior when junior is allowed higher salary of the senior and junior is allowed higher salary Copy of WP filed by 2 existing and 1 former employee of IIFT seeking revised assistant/ stenographer scale of pay 1640/ w.e.f. 1.1.86”

The information sought by the Petitioner vide RTI application dated 25.05.2015 reads as under:-

“1. Year-wise details of income and expenditure in respect of various programmes and courses of the Institute for the period of present Director.

Year-wise details of income and expenditure of various courses and programmes conducted by IIFT prior to that under Director Ship of S/Shri Chakko, Prabir sengupta and Dharamrajan. Year wise details of grants received from Govt. of India during their periods and the period Of present Director.

Details of expenditure made out of these grants.

Year-wise details of expenditure on renovation of office of the Director during the tenure of present and said Directors.

Year-wise details of expenditure made on purchase of computers. Air Conditioners, Printers, fittings and fixtures in office building under the present and said Directors.

The income received from sale of computers, ACs each year during directorship of above Directors.

Details of year-wise-expenditure on purchase of Computers, ACS, Printers, Audio equipments, fittings and fixtures in office building which was made without inviting tenders/quotations.

Details of expenditure made each year on foreign and inland visits/trips of present and above past Directors and approvals if any received for the same from higher authorities.

Details of inland trips of present and former Directors which touched their home towns and places of their relatives.

Details of income made from various foreign visits made by the present Director and above past Directors.

Details of year-wise expenditure made on office building at Kolkatta under present and past Diectors and of their visits to Kolkatta.

Year wise details of expenditure made on litigation and fees to Advocates with details of the same also under present and said former Directors.

Details of income made from litigation after fee and other expenses of Advocates.

Details of yearwise expenditure made on recruitment of faculty under present and said past Directors.

Details of year-wise FDs made in different banks and the rates of interest thereon under present and said past Directors and the procedure adopted for making the same.

Details of losses suffered, if any on pre-matured withdrawal of FDs under the present and past 3 Directors.

The details of year-wise loss caused to revenues of the Institute, due to corrupt or other activities of any Director and details of action taken thereon

Details of year-wise expenditure on entertainment head of present and past Directors.

Details of year-wise expenditure on Governing body and executive meetings and on its members under the present and past 3 directors.

Details of year-wise expenditure on petrol consumption of staff car of present Director and the said 3 past Directors.

Details of year-wise fees paid to auditors of the Institute under present and Past 3 directors.

Details of total income and Expenditure of the Institute every year during the tenure-of-present and past 3 Directors.

Details of year-wise expenditure made on foreign visits of each one of the faculty member and the income if any received from it.

Year-wise details of struck payments of the Institute at different places under present and said past 3 directors.

Details of year-wise audit objections in respect of the above expenditures or otherwise for the period of present and past 3 Directors with copies of the same.

Details of clarifications if any made to the audit objections.”

The respondent was not provided a reply and he preferred an appeal in front of the First Appellate Authority on 03.09.2013. A reply was provided by the FAA wherein the CPIO was directed to provide a reply to the RTI Application. Unsatisfied with the response, the respondent approached the Ld. CIC claiming non-furnishing of information by either the PIO, or the FAA. The Petitioner herein argued in front of the Ld. CIC that the respondent herein has been engaged in filing numerous RTI's with the institution which are repetitive in nature, and the applicant has been demanding voluminous information and documents. The Ld. CIC after hearing both the parties on 18.12.2015 directed the petitioner herein to facilitate inspection of records and also cautioned the respondent herein to not abuse the provisions of the RTI Act. The relevant excerpt reads as under:-

“6. Commission pursued the document filed by the appellant and found that he has filed more than 20 RTI applications consisting of 27-50 questions. He could not prove any public Interest. The way he drafted the RTI applications gives an Impression that he kept on harassing the Institution, and motivated by privatevengeance.

The Commission directs the respondent- authority to facilitate Inspection of records taking enough care of records and security of appellant within 15 days from the date of receipt of order and provide certified copies of the documents which are not exempted under section 8& 9 of RTI Act

The Commission advices the appellant not to misuse RTI for his privatevengeance, to have Inspection Of the document In peaceful manner without causing any disturbance to routine works of office.

The Commission also cautions him not to file multiple, repetition, vexatious and abusive petition which may cause-wastage-of Time and labour of Public authority &the Commission.”

It is stated that pursuant to the order dated 18.12.2015, the respondent was invited to inspect the records but the respondent did not appear in front of the petitioner. The respondent however chose to file a review of the order. 7. Another RTI application dated 25.05.2015 was filed by Respondent No.1 seeking information on 27 points seeking various details of staffing, lodging and travel expenditure of the directors of the institute. However, the CPIO did not provide any information to the Respondent vide its response dated 28.05.2015 and stated as under:

“Sir,

Please refer to your RTI application dated 25.05.2015.

In this connection, we would like to reiterate that information sought by you is voluminous and contained in multiple files having hundreds of papers each. As such, it would not be possible for us to Compile the information and send it across to you.

We again request you to visit IIFT on a convenient date and obtain the information required on payment of prescribed fee.”

First Appeals were filed by the Respondent herein on 14.05.2015 and 02.06.2015. On 02.07.2015, the First Appellate Authority upheld the decision of the CPIO. Second appeal was filed by the Respondent against the decision of the First Appellate Authority on 20.07.2015. The impugned order was passed by Respondent No.2 on 25.01.2016 directing the Petitioner herein to provide categorical information on the 27 issues to the Respondent herein in accordance with the provisions of the Right to Information Act, 2005. Relevant portions of the impugned Order read as under:-

“6. The Commission is of the considered view that the Appellant has been deprived by the Respondents deliberately from having the benefits of the RTI Act, 2005, even after lapse of more than seven months period. Thus, the Respondents have defeated the very purpose of the RTI Act, 2005 for which it was legislated by the Parliament of India. As such, the commission feels that Appellant’s second appeal deserves to be allowed in toto. Therefore, it is allowed in toto.

7. In view of the above, the Respondents are hereby directed to provide the complete and categorical information, issue-wise, to the appellant as per his

RTI application, in accordance with the provisions of the RTI Act 2005, within 30 days from the date of receipt of this order under intimation to this Commission. If need be, Section 5(4) of the RTI Act may also be invoked in the matter.”

It is submitted by the Ld. Counsel for the petitioner that Respondent 1 is an ex-employee of the petitioner organisation who has been engaging in the practice of filing numerous RTI applications with the sole motive of inconveniencing, disrupting and defaming various authorities of the petitioner. He states that the petitioner has filed upwards of 60 RTI applications with the petitioner institute each containing 20-30 questions which would require immense resources to compile and provide the information to the respondent herein as sought for. It is therefore the contention of the learned Counsel for the Petitioner that similar to other RTI Applications of the petitioner, the information sought in the RTI Application dated 25.5.2015 was also voluminous, disclosure of which was denied under Section 7(9) of the RTI Act as it would have taken a lot of resources of the Petitioner in providing the said information.

Learned Counsel for the Petitioner also contends that the Central Information Commissioner erred in holding that as per Section 2(j)(i) of the RTI Act the right to inspect documents and records is vested with the applicant and not with the Petitioner herein. He states that the Ld. CIC in its order dated 18.12.2015 directed the petitioner institute to allow the respondent to visit the premises of the institute and inspect the records herself owing to the volume of information which was sought for. He therefore submitted that due to the information sought for vide his application dated 25.05.2015 being voluminous, and similar to the information sought for the petitioner in his RTI Application dated 06.07.2013, the petitioner organisation requested the respondent to visit the premises of the institute and inspect the records for herself instead of diverting resources to compile the information sought for by the respondent in line with the order dated 18.12.2015.

Per contra, learned Counsel for the Respondent has relied on Section 7 of the RTI Act to state that it is obligatory for a public authority to provide the information and documents sought by the Respondent in his RTI Application. He further states that the Respondent has not sought for any information which forms part of Section 8 & 9 of the RTI Act. He, therefore, contends that the Respondent was within his rights to get the information

under the RTI Act as its not the case of the case of the petitioner that the information is exempted from disclosure.

Heard the Counsels for the Parties and perused the material on record. The short question which arises for consideration in the present Writ Petition is whether the contention of the Petitioner that there is a direct conflict between the orders dated 25.12.2015 and 25.01.2016 passed by the CIC is correct or not. A perusal of the questions raised by the Respondent in his RTI Applications dated 24.07.2013 and 25.05.2015 shows that there is no overlap in the questions. The fact that the Petitioner has been permitted to inspect the documents by the Ld. CIC does not mean that the Petitioner is not entitled to the information against his RTI Application and the information cannot be provided to him. Section 8 of the RTI mandates the exemption from disclosure of information. The information sought by the Respondent herein does not fall in any of the exemptions contained in Section 8 of the RTI Act. The only reason that has been given in the Writ Petition for not providing the information sought by the Respondent is that the information is bulky and it is not possible for the authorities to provide the information as sought for by the Respondent. If this Court accepts the contentions raised in the present Writ Petition, it will amount to adding one more exemption under Section 8 of the RTI Act. It is not the case of the Petitioner that the information sought by the Respondent would prejudicially affect the sovereignty and integrity of India or that the information sought is expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court or that it would amount to a breach of privilege of Parliament or the State legislature or that the information sought for by the Respondent includes commercial confidence, trade secrets or intellectual property, disclosure of which would harm the competitive position of a third party.

In view of the above, this Court does not find any reason to interfere with the Order of the CIC.

Accordingly, the Writ Petition is dismissed. Pending applications, if any, also stand dismissed.

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