

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL****WP(C)No.625 of 2020**

The State of Manipur represented by the Commissioner(Power),
Government of Manipur, Secretariat Old Block, Babupara, PO & PS
Imphal, District, Imaphal West, Manipur-795001.

...Petitioner***- Versus -***

1. Shri Khumanthem Dhanachandra Singh, Naoremthong, Laishram
Leirak, District Imphal West, Manipur-795001

... Principal Respondents

2. The Manipur Information Commission, Secretariat North Block, Ground
Floor, Behind Western Block, PO & PS Imphal, District Imphal West,
Manipur- 795001.

...Proforma Respondent

BEFORE
HON'BLE THE ACTING CHIEF JUSTICE M.V.MURALIDARAN
ORDER

29.03.2023

1. Challenging the impugned order dated 28.10.2020 passed by the
Manipur Information Commission in Appeal Case No.48 of 2020 whereby
directing the State Public Information Officer/Power Department to furnish

xerox copy of OBC certificates submitted by the selected candidates to the first respondent within a week and the notice dated 12.11.2020 issued by the Deputy Registrar (Judl-II) of the Manipur Information Commission, the Commissioner (Power), Government of Manipur, has filed this writ petition.

2. Heard Mrs.CH. Sundari, learned Government Advocate appearing for the petitioner and Ms. Silvia, learned counsel appeared on behalf of Mr.K.Roshan, learned counsel for the second respondent.

3. Despite the name being printed in the cause list, none appeared on behalf of the first respondent. The first respondent was called absent and set *ex parte*.

4. Assailing the impugned order of the second respondent and the notice, the learned Government Advocate for the petitioner submitted that the second respondent/Manipur Information Commission exceeded its jurisdiction and authority in the order dated 28.10.2020 by directing the SPIO (Power), Government of Manipur, to disclose the information not related to the first respondent and the aforesaid direction issued by the second respondent in Appeal No.48 of 2020 is in clear violation and blatant abuse of the provisions of the Right to Information Act, 2005 (for short, "*RTI Act*"). In fact, the information sought by the first respondent is barred under Section 8(1)(j) of the RTI Act and the first respondent has also not disclosed any issue of larger public interest in his RTI application

dated 29.5.2020. Therefore, the order dated 28.10.2020 passed by the second respondent in Appeal No.48 of 2020 and the subsequent notice dated 12.11.2020 are liable to be quashed.

5. Supporting the impugned order and issuance of the consequential notice, the learned counsel for the second respondent argued that the OBC certificates sought by the first respondent are not personal documents once it is submitted while applying for a Government job. Therefore, the second respondent was right in directing the SPIO (Power) to furnish the xerox copy of the OBC certificates submitted by the selected candidates. Thus, a prayer has been made to dismiss the writ petition.

6. This Court considered the rival submissions and also perused the materials available on record.

7. The first respondent submitted an RTI application dated 29.5.2020 to the SPIO, Manipur Public Service Commission (MPSC), seeking the following information/documents:

- (1) Certified copy of OBC (Meetei/Meitei) certificate submitted by the final selected OBC (Meetei/Meitei) candidates' of Assistant Engineer (Electrical), Power Department.
- (2) On what basis the number of post of the Assistant Engineer increased and to prove all relevant

documents in connection with the increases of the post.

8. Upon receipt of the RTI application, the MPSC transferred the same to the Department of Personnel, Government of Manipur, which in turn transferred to the SPIO, Power Department, Government of Manipur. Since the required information was not furnished within 30 days from the date of receipt of RTI application, the first respondent has preferred First Appeal under Section 19 of the RTI Act before the Secretary (Power). Since the appellate authority has failed to furnish his decision within a period of 30 days, the first respondent filed Appeal Case No.48 of 2020 before the second respondent.

9. In the appeal, the SPIO (Power) filed written statement stating that with respect to Query No.1, the information sought by the first respondent was exempted under Section 8(1)(j) of the RTI Act and the said information relates to personal information which has not relationship to any public activity or interest and also the third party information. With respect to Query No.2, it has been stated that it is not open to an appellant to ask in the guise of seeking information and the RTI Act does not cast on the public authority any obligation to answer the queries. However, by the impugned order, the second respondent observed as under:

“Reacting to her statement on query No.1, the appellant argued that the OBC certificate is a public document and it is a temporary document based on his/her annual income. He also stated his

demand for the said documents is raised on public interest. He however admitted that in case of query No.2, there is some incompleteness in the sought information.

Upon hearing from both the parties, the Commission is of the view that OBC certificate is not a personal document as argued by the public authority, once it is submitted while applying for a government job/DPC proceedings. In case of query no.2, it felt that the said query is incomplete and not clear.”

10. While observing so, the second respondent has finally directed as under:

“Accordingly, the Commission directs the SPIO/Power department to furnish xerox copy of the OBC certificates submitted by the selected candidates, which is in query No.1 to the appellant within a week from today.

The Commission further grants a liberty to the appellant to file a misc. application if the said document is not furnished by the public authority. Hence, the appeal is closed.”

11. The aforesaid observation and findings recorded by the second respondent is absolutely incorrect as the personal information or details submitted by an employee to an employer for the purposes of his employment are expected to be kept confidential. Such details cannot be available to all and sundry. However, if the competent authority is satisfied that a larger public interest warrants the disclosure of such information, the same can be disclosed. In the case on hand, admittedly, the first respondent is a stranger to the Department and have not connected with

the OBC certificates submitted by the selected OBC candidates of Assistant Engineer (Electrical), Power Department, Government of Manipur.

12. It is settled law that there is no public interest in furnishing OBC certificates which relate to third parties. That apart, the information sought by the first respondent relates to third party information which is barred from disclosure under Section 8(1)(j) of the RTI Act, which reads thus:

“(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.”

13. The import of personal information envisaged under Section 8(1)(j) of the RTI Act has been exemplified in the context of the ratios of the Hon'ble Supreme Court.

14. In ***O.K. Ghosh v. E.X. Joseph, AIR 1963 SC 812***, it has been held that Section 8(1)(j) of the Act of 2005 ensures that all information pertaining to public authorities, including personal information are not given blanket access to the public at large. Before any such information

is sought the information seeker has to disclose a reason for 'sustainable public interest' that would permit its disclosure.

15. Time and again, the Hon'ble Supreme Court held that the personal records, including name, address, caste, physical, mental and psychological status, marks obtained, grades and answer sheets, are all treated as personal information. Similarly, professional records, including qualification, performance, evaluation reports, ACRs, disciplinary proceedings, etc. are all personal information. Medical records, treatment, choice of medicine, list of hospitals and doctors visited, findings recorded, including that of the family members, information relating to assets, liabilities, income tax returns, details of investments, lending and borrowing, etc. are personal information. Such personal information is entitled to protection from unwarranted invasion of privacy and conditional access is available when stipulation of larger public interest is satisfied.

16. The Hon'ble Supreme Court in the case of ***Bihar Public Service Commission v. Saiyed Hussain Abbas Rizwi, (2012) 13 SCC 61***, while explaining the term "public interest" held:

"22. The expression "public interest" has to be understood in its true connotation so as to give complete meaning to the relevant provisions of the Act. The expression "public interest" must be viewed in its strict sense with all its exceptions so as to justify denial of a statutory exemption in terms of the Act. In its common parlance, the expression "public interest", like "public purpose", is not capable of any

precise definition. It does not have a rigid meaning, is elastic and takes its colour from the statute in which it occurs, the concept varying with time and state of society and its needs (State of Bihar v. Kameshwar, AIR 1952 SC 252). It also means the general welfare of the public that warrants recognition and protection; something in which the public as a whole has a stake [Black's Law Dictionary (8th Edn.)]."

17. The Hon'ble Supreme Court in ***Girish Ramchandra Deshpande v. Central Information Commissioner and Others, (2013) 1 SCC 212*** held:

"13. 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 organization 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 of 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.”

18. Thus, it is clear that the certified copy of OBC (Meetei/Meitei) certificates relate to third parties is barred from disclosure under Section 8(1)(j) of the Act of 2005. While being so, the second respondent ought not to have directed the SPIO, Power Department, to furnish the xerox copy of the OBC certificates submitted by the selected candidates.

19. It is apposite to mention that the information relating to caste of a person would also fall within the definition of “personal information” and, thus, this would also be exempted from disclosure under Section 8(1)(j) of the RTI Act.

20. No shred of materials had been produced by the first respondent to justify that disclosure of the information sought was warranted in larger public interest. Merely stating that disclosure of the information sought would be in the interest of public is plainly insufficient. Moreover, the caste of a person is exempted from disclosure under the RTI Act being a personal information. Therefore, second respondent has erred in directing the SPIO, Power Department, to furnish xerox copy of the OBC certificates submitted by the selected candidates, which are not related to the first respondent himself. Consequently, the notice dated 12.11.2020 issued by the second respondent to the petitioner is also liable to be quashed. It is also to be noted that knowing fully well the legal

position as well as no case in his favour, the first respondent has failed to appear before this Court. That apart, the conduct of the first respondent in not appearing before this Court would prove that he has no case at all.

21. For all the reasons stated above, the writ petition is allowed. The impugned order dated 28.10.202 passed by the second respondent in Appeal Case No.48 of 2020 and the consequential notice dated 12.11.2020 issued to the petitioner are set aside. There will be no order as to costs.

ACTING CHIEF JUSTICE

NFR/FR

John kom