IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 29.01.2018

\+ **W.P.(C) 5057/2015**

SATPAL ..... Petitioner

Versus

CENTRAL INFORMATION COMMISSION & ORS ..... Respondents

Advocates who appeared in this case:

For the Petitioner : Dr Vijendra Mahndiyan and Ms Pallavi Awasthi.

For the Respondents :

CORAM
HON'BLE MR JUSTICE VIBHU BAKHRU

JUDGMENT

VIBHU BAKHRU, J

1. The petitioner has filed the present petition, *inter alia*, impugning an order dated 13.11.2014 passed by the Central Information Commission (hereafter 'the CIC'), whereby the information sought by the petitioner was denied on the ground that the same was in the nature of personal information and was exempted under section 7(9), 8(1)(e) and 8(1)(j) of the Right to Information Act, 2005 (hereafter 'the Act').

2. Briefly stated, the relevant facts necessary to address the controversy involved in the present petition are as under:-

2.1 The petitioner filed an application under the Act seeking caste certificates of the employees who were promoted from Group D to Group C under the reserved category of SC/OBC. By the letter dated 28.03.2013, the aforesaid information was denied by the CPIO, Executive Director (Southern Region), Air India (respondent no.2) on the ground that it relates to personal information and, thus, was exempt from disclosure under Section 8(1)(j) of the Act.

2.2 In the meanwhile, the petitioner filed another application (the second application) dated 05.04.2013. The information sought by the petitioner therein was denied by respondent no.3 by a letter dated 30.04.2013, on the ground that the same was exempted from its disclosure under section 8(1)(e) of the Act.

2.3 Thereafter, on 03.06.2013, the petitioner filed an appeal under section 19 of the Act, before the First Appellate Authority (FAA) against the response dated 28.03.2013. On the same day, the petitioner also filed another application (the third application) with respondent no.2 seeking the same information as was sought by the earlier two applications.

2.4 The appeal preferred by the petitioner was disposed of by the FAA by an order dated 13.06.2013. The petitioner's application (the third application) dated 03.06.2013 was also rejected by a communication dated 03.07.2013.

2.5 The petitioner preferred another appeal to the FAA against the communication dated 30.04.2013. The appeal was disposed of by an order dated 17.07.2013, whereby the decision to deny the information sought by the petitioner was upheld.

2.6 Aggrieved by the denial of information, the petitioner preferred a second appeal under section 19(3) of the Act impugning the order dated 17.07.2013 passed by the FAA. The petitioner also filed an appeal before the FAA against the order dated 13.06.2013. This appeal was not considered and therefore the petitioner preferred another second appeal to the CIC.

2.7 The aforesaid appeals were disposed by the CIC by a common order dated 13.11.2014 (hereafter 'the impugned order'); the CIC concurred with the CPIO that the information sought by the petitioner is exempt from disclosure, as no larger public interest is involved. The relevant extract of the impugned order is set out below:-

> "As per the appellant, he requires this information in public interest. The commission has perused the definition of 'Public Interest' mentioned in Stroud's Judicial Dictionary. Volume 4 (IV Edition). The same is reproduced below:-
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> *"a matter of public or general interest does not mean that which is interesting as gratifying curiosity or love of information or amusement but that in which a class of community have a pecuniary interest, or some interest by which their legal rights or liabilities are affected."*
>
> In the instant case, the appellant, except for stating that he is seeking this information in public interest, has established the same. As per the above definition, he has neither established a class/community having a

pecuniary interest or interest by which their legal right/liabilities are affected.

> xxxx xxxx xxxx
>
> It is fairly obvious that the caste and educational certificates of an employee are in the of personal information about a third party. The employee might have filed these documents before the appointing authority for the purpose of seeking employment, but that is not reason enough for this information to be brought in to the public domain to which anybody could have access."

3. The principal question that falls for consideration of this Court is whether the caste certificates submitted by employees for seeking the benefit of reservations in favour of OBC Category are exempt from disclosure under Section 8 (1)(e) & 8(1)(j) of the Act.

4. Section 8(1)(e) & 8(1)(j) of the Act reads as under:

> "**8. Exemption from disclosure of information**. - (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,—
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> xxxx xxxx xxxx xxxx
>
> (e) information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;
>
> xxxx xxxx xxxx xxxx
>
> (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:

Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person."

5. It is apparent from the plain language of Clause (e) of Section 8 (1) of the Act that only such information which is available to a person in a fiduciary relationship is exempt from disclosure. In ***Central Board of Secondary Education v. Aditya Bandopadhyay & Ors***: ***(2011) 8 SCC 497***, the Supreme Court considered the question whether an examining body holds evaluated answer books in a fiduciary relationship and consequently exempt from disclosure under Section 8(1)(e) of the Act. The Supreme Court referred to various decisions explaining the term "fiduciary" and "fiduciary relationship" and held as under:-

"39. The term 'fiduciary' refers to a person having a duty to act for the benefit of another, showing good faith and condour, where such other person reposes trust and special confidence in the person owing or discharging the duty. The term `fiduciary relationship' is used to describe a situation or transaction where one person (beneficiary) places complete confidence in another person (fiduciary) in regard to his affairs, business or transaction/s. The term also refers to a person who holds a thing in trust for another (beneficiary). The fiduciary is expected to act in

> confidence and for the benefit and advantage of the beneficiary, and use good faith and fairness in dealing with the beneficiary or the things belonging to the beneficiary. If the beneficiary has entrusted anything to the fiduciary, to hold the thing in trust or to execute certain acts in regard to or with reference to the entrusted thing, the fiduciary has to act in confidence and expected not to disclose the thing or information to any third party.
>
> 40. There are also certain relationships where both the parties have to act in a fiduciary capacity treating the other as the beneficiary. Examples of these are : a partner vis-à-vis another partner and an employer vis-à-vis employee. An employee who comes into possession of business or trade secrets or confidential information relating to the employer in the course of his employment, is expected to act as a fiduciary and cannot disclose it to others. Similarly, if on the request of the employer or official superior or the head of a department, an employee furnishes his personal details and information, to be retained in confidence, the employer, the official superior or departmental head is expected to hold such personal information in confidence as a fiduciary, to be made use of or disclosed only if the employee's conduct or acts are found to be prejudicial to the employer."

6. It is apparent from the above that personal information or details submitted by an employee to an employer for the purposes of his employment are expected to be kept confidential. Plainly, the same 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, notwithstanding, that the same was available with the person in a fiduciary capacity.

7. It can hardly be disputed that the information relating to the caste of a person would also fall within the definition of "personal information" and, thus, this would also be exempt from disclosure under Section 8(1)(j) of the Act.

8. At this stage, it is also important to note that even though the information available to any person in a fiduciary capacity is exempt from disclosure in terms of Section 8(1)(e) of the Act; the said exemption is not absolute. If the competent authority is satisfied that a larger public interest warrants disclosure of such information, the same would have to be disclosed. The width of the exclusionary provision of Section 8(1)(e) of the Act does not extend to information, the disclosure of which is warranted in public interest.

9. Similarly, in terms of Section 8(1)(j) of the Act, the personal information which is otherwise exempt from disclosure, can be disclosed if a larger public interest justifies such disclosure.

10. In the present case, respondent no.1 has not indicated any material to justify that disclosure of the information sought by the petitioner is warranted in larger public interest.

11. In this view, this Court finds no reason to interfere with the impugned order. However, it is clarified that if the petitioner is able to establish any special circumstances which would warrant disclosure of information sought by him in larger public interest, he would be at liberty to approach the concerned CPIO for such information. Merely stating that disclosure of the information sought would be in the

interest of transparency and, thus, in public interest is plainly insufficient.

12. The petition is disposed of with the aforesaid directions. The parties are left to bear their own costs.

VIBHU BAKHRU, J

JANUARY 29, 2018
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