

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 8506/2018

Sunil R. Jagtap
..VS..
MSIC & ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms. P. D. Sood, Advocate for the petitioner
Shri A.A. Madiwale, AGP for the respondent nos. 1 & 2
Shri T. Deshpande, Adv h/f Shri F.T. Mirza, Adv for respondent nos. 3 & 4

CORAM : N.B. SURYAWANSHI, J.

ORDER RESERVED ON : 06/02/2020

ORDER PRONOUNCED ON : 16/03/2020

1] This petition challenges the order dated 27/02/2017 (Annexure P-8) passed by the State Information Commissioner, Nagpur in Appeal No. 2382/2016 to the extent of direction about the information on Point Nos. 7 and 8 of the application dated 30/04/2016 under the Right to Information Act, 2005 (for short "the said Act").

2] The petitioner filed application on 30/04/2016 under the said Act to the State Public Information Officer/Headmaster, Guru Nanak Secondary & Higher Secondary School, Bezonbagh, Nagpur seeking information about the Minority Status Certificate, Recognition Letter, School Inspection Report of 2005-06 till date, Collective Seniority List, List of teachers and staff, approval letters of teachers and staff, copy of letter of staff approval from 2005-06 till date, application letter and copies of Experience Certificates submitted by Dr. Jaspal Singh Saluja for

appointment to the post of Headmaster, his appointment letter, copy of terms and conditions of the appointment and copy of his service book.

3] It is the case of the petitioner that since there was no response on the part of the respondent no. 4 to the said RTI application, the petitioner filed first appeal before the First Appellate Authority/Education Officer, Secondary (Zilla Parishad), Nagpur on 16/06/2016. The First Appellate Authority, vide order dated 30/08/2016, directed the respondent no. 4 to supply the information on Point Nos. 1 to 8 to the petitioner within 10 days. However, the respondent no. 4 failed to comply with the order passed by the First Appellate Authority/respondent no. 2. The petitioner, therefore, filed second appeal before the Second Appellate Authority/State Information Commissioner (respondent no. 1). The Second Appellate Authority from time to time passed orders thereby directing the respondent no. 4 to provide information on Point Nos. 1 to 6 in accordance with Section 7 (6) of the said Act. Thereafter, vide order dated 27/02/2017, the respondent no. 1 directed the respondent no. 4 to provide information to the petitioner on Point Nos. 7 and 8 after asking the third party and further directed that if the third party refuses to provide the said information, the same may be informed to the petitioner. This part of the order is challenged in the present writ petition.

4] Heard learned advocate for the petitioner, learned AGP for the respondent nos. 1 and 2 and learned advocate for the respondent nos. 3 and 4.

5] Learned advocate for the petitioner states that the institution wherein the Headmaster is working is receiving grant-in-aid, and therefore it is bound to provide information in terms of the RTI Act. It is stated that the information sought was a public information and it cannot be termed as personal information. By referring to Section 8 of the said Act, learned advocate for the petitioner submits that the said information would not cause invasion of the privacy of the individual and in the larger public interest, disclosure of such information is necessary. She, therefore, contends that the portion of the impugned order by which information on Point Nos. 7 and 8 is directed to be given only after asking the third party is unsustainable in law and facts and the same is liable to be quashed and set aside. It is prayed that the respondents be directed to provide the said information to the petitioner. Learned advocate for the petitioner placed reliance on the following judgments:-

- a) Shri Anandi Mukta Sadguru Shree Muktajee Vandasjiswami Suvarna Jayanti Mahotsav Smarak Trust and others vs. V. R. Rudani and others **AIR 1989 SC 1607.**
- b) Chief Information Commissioner and anr. vs. State of Manipur and anr. **AIR 2012 SC 864.**
- c) Surendra Singh vs. State **AIR 2009 ALLAHABAD 106.**

6] On the other hand, learned advocate for the respondent nos. 3 and 4 vehemently opposed the petition contending that the petitioner is not concerned with the institution and he has no right to claim such information. He

states that the information is a personal information as contemplated under Section 8 (j) of the said Act and the same is not liable to be disclosed. No case is made out by the petitioner that in the larger public interest, the said information is liable to be disclosed. He further states that there is no merit in the writ petition and the same may be dismissed. In support of his contention, he placed reliance on the following judgments:-

a) Girish Ramchandra Deshpande vs. Central Information Commissioner and others **(2013) 1 SCC 212.**

b) Bhaskarrao Shankarrao Kulkarni vs. State Information Commissioner, Nagpur and others **2009 (4) Mh.L.J. 802.**

7] Learned AGP also supports the impugned order stating that the information sought by the petitioner is a personal information and hence the Second Appellate Authority was justified in passing the order.

8] In Girish Ramchandra Deshpande (supra), the Hon'ble Supreme Court considered as to what amounts to personal information and what is exempted from disclosure of information. In the context of employer – employee relationship under service law and right to privacy viz-a-viz the right to information, it was held thus:-

“11. The petitioner herein sought for copies of all memos, show cause notices and censure/punishment awarded to the third respondent from his employer and also details viz. movable and immovable properties and

also the details of his investments, lending and borrowing from Banks and other financial institutions. Further, he has also sought for the details of gifts stated to have been accepted by the third respondent, his family members and friends and relatives at the marriage of his son. The information mostly sought for finds a place in the income tax returns of the third respondent. The question that has come up for consideration is whether the above-mentioned information sought for qualifies to be “personal information” as defined in clause (j) of [Section 8\(1\)](#) of the RTI Act.

12. 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.

13. *The details disclosed by a person in his income tax returns are “personal information” which stand exempted from disclosure under clause (j) of [Section 8\(1\)](#) of the RTI Act, unless involves a larger public interest and the Central Public Information Officer or the State Public Information Officer or the appellate authority is satisfied that the larger public interest justifies the disclosure of such information.”*

9] In Girish Ramchandra Deshpande (supra) also, copies of appointment order, promotion order, transfer orders, memo, show cause notice etc., details of movable and immovable properties, charge-sheet issued to the employee therein and enquiry etc., were sought under the said Act. The present case is squarely covered by the above quoted authoritative pronouncement of the Hon'ble Supreme Court and it appears that the petitioner has not bonafide sought the information under the said Act. The information sought by the petitioner in Point Nos. 7 and 8 is essentially a personal information of the third party and disclosure of such information would cause unwarranted invasion of the privacy of the Headmaster – Dr. Jaspal Singh Saluja. The institution has sought response from the Headmaster Dr. Jaspal Singh Saluja as to whether the information about him sought under the said Act should be made available to the petitioner. He replied that his personal information as is sought should not be supplied to anybody or third person.

10] In *Shri Anandi Mukta* (supra), the Hon'ble Supreme Court has held that the writ of mandamus can be issued apart from the Statutory Authorities and instrumentalities of the State to any other person or authority performing the public duty and the public trust running college was directed to pay payscale revised by the University to its employees. It was held that if the rights are purely of a private character, no mandamus can issue. There cannot be any dispute on the ratio laid down by the Hon'ble Supreme Court in this case. However, the point to be considered in the present writ petition is whether personal information as contemplated under Section 8 (1) (j) of the said Act is liable to be furnished to the petitioner.

11] In *Chief Information Commissioner* (supra), the Hon'ble Supreme Court held that the right to information is intrinsic part of fundamental right to free speech and expression guaranteed under Article 19 (1) (a) of the Constitution of India and such right is subject to reasonable restrictions under Article 19 (2) of the Constitution of India. This legal position is not disputed.

12] In *Surendra Singh* (supra), the Division Bench of Allahabad High Court held that the information relating to appointment/educational certificates of Assistant Teachers employed in the institution needs to be given as it would not amount to invasion of privacy of any individual of Committee of Management and the said information is not exempted under Section 8 (3) of the said Act.

The above decisions relied upon by the learned advocate for the petitioner are contrary to the ratio laid down by the Hon'ble Supreme Court in *Girish Ramchandra*

Deshpande (supra) and these authorities are of no help to the petitioner.

13] Since the Second Appellate Authority has passed the said direction in respect of Point Nos. 7 and 8 in consonance with the decision of the Hon'ble Supreme Court in Girish Ramchandra Deshpande (supra), no fault can be found with the said direction and in view of the refusal of the Headmaster to disclose the said information, the petitioner is not entitled to claim such information as of right under the said Act. The petitioner has not made out a case that larger public interest justifies disclosure of the information sought in Point Nos. 7 and 8. I find no merit in the writ petition. Hence, the following order:-

ORDER

- (a) The writ petition is **dismissed**.
- (b) There shall be no order as to costs.

JUDGE

ANSARI