



2024:DHC:1779



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 28th FEBRUARY, 2024

IN THE MATTER OF:

+ **W.P.(C) 12932/2021**

EHTESHAM QUTUBUDDIN SIDDIQUE Petitioner

Through: Mr. Arpit Bhargava, Mr. Sarthak
Sharma & Mr. Pankaj, Advocates.

versus

CPIO, DEPARTMENT OF PERSONNEL AND TRAINING

..... Respondent

Through: Mr. Rakesh Kumar, CGSC with Mr.
Sunil, Advocate for UoI.

+ **W.P.(C) 12933/2021**

EHTESHAM QUTUBUDDIN SIDDIQUE Petitioner

Through: Mr. Arpit Bhargava, Mr. Sarthak
Sharma & Mr. Pankaj, Advocates.

versus

CPIO, MINISTRY OF HOME AFFAIRS

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. The Petitioner has been convicted and sentenced to death penalty in the Mumbai Twin Blast known as 7/11 bomb blast case which took place in the year 2006. The Petitioner in W.P.(C) 12933/2021 had made an RTI



2024:DHC:1779



application seeking copies of UPSC forms and other documents related to appointment of 12 IPS officers who had supervised the investigation relating to the bomb blasts in which the Petitioner had been arrested and convicted and in W.P.(C) 12932/2021, the Petitioner had made an RTI application seeking copies of UPSC form and other documents related to the appointment of 4 IAS officers who had accorded sanction to the prosecution related to the arrest and conviction of the Petitioner.

2. The information as sought by the Petitioner has been rejected by the CPIO, Ministry of Home Affairs in W.P.(C) 12933/2021 and the CPIO, Department of Personnel and Training in W.P.(C) 12932/2021 on the ground that the information as sought for by the Petitioner is exempted from disclosure under Section 8(1)(j) of the Right to Information Act, 2005. The appeals thereto were also rejected by the Appellate Authority on the very same ground.

3. It is pertinent to mention here that the Petitioner before both the CPIOs and the Appellate Authority had taken the ground that the information as sought could not be rejected on the ground that it relates to personal information of the officers as 20 years had passed since the appointment of the officers were made from the date on which the request for the information has been made.

4. The Ld. Central Information Commission (CIC) rejected the appeal by holding that the information sought would encroach upon the right of privacy of the officers concerned. The Ld. CIC held that the object of the RTI Act is to ensure transparency and accountability but since the right to privacy is a continuous process and such a right to privacy will continue even after 20 years. The relevant portion of the Order dated 29.11.2019 passed by the Ld. CIC reads as under:



"6. The Commission after adverting to the facts and circumstances of the easel, hearing both parties and perusal of records, feels that the right to privacy being a facet of fundamental right under Article 21 of the Constitution has to be protected in accordance with the three parameters laid down by the Supreme Court in the case of KS.Puttaswamy (Supra) i.e. (i) there must be legal object, (ii) there must be legal framework and (iii) there must be nexus between the objective to be achieved and the privacy to be compromised. It appears that for meeting different treatment, there must be a reasonable classification and the classification must have a rational nexus with the objective to be achieved. If we take that the RTI Act contains provisions providing framework for disclosures outweighing right to privacy under Section 8(3) of the RTI Act which aims transparency and accountability, the appellant may be entitled for the information of the occurrence which took place 20 years before the RTI application. Thus the Right to Privacy of the 3rd party may not be absolute if the same is falling within the ambit of the aforementioned parameters. However, the respondent have claimed that the occurrence was not a onetime event i.e. the Right to Privacy is a continuous process and drawing a line of giving applications for appointment as such may not be a water tight compartment wherein the Right to Privacy was not existing or continuing after the lapse of 20 years."

5. The aforesaid Order dated 29.11.2019 passed by the Ld CIC is under challenge in the instant writ petitions.

6. The short question that arises for consideration before this Court is that since the information has been sought after 20 years from the date of appointment of the officers, would the bar under Section 8(1)(j) of the RTI Act, 2005 be still available to the officers concerned or not.



2024:DHC:1779



7. Admittedly, the information as sought by the Petitioner is personal in nature [Refer: Girish Ramchandra Deshpande v. Central Information Commr., (2013) 1 SCC 212, R.K. Jain v. Union of India, (2013) 14 SCC 794 and Canara Bank v. C.S. Shyam, (2018) 11 SCC 426].

8. The Petitioner has been convicted and sentenced to death in the Mumbai Twin Blast known as the 7/11 bomb blast case which took place in the year 2006. The Petitioner was Accused No.4. The Petitioner was sentenced to the punishment of death for an offence under Section 302 of the IPC, under Section 3(b) of the Explosive Substances Act, 1908, and Section 3(1)(i) of the Maharashtra Control of Organised Crime Act, 1999 and apart from this, the Petitioner had also been sentenced for various offences under the provision of IPC.

9. The information as sought by the Petitioner is against the officers who were involved in the investigation and who were also involved in granting sanction to the prosecution relating to the arrest and conviction of the Petitioner. The information is of such a nature, if given to the Petitioner, may expose these officers to grave danger. The incident for which the Petitioner has been sentenced to the death penalty has occurred in the year 2006. Admittedly, 20 years have not passed after the date of the incident, and therefore, in any event, the benefit of Section 8(3) of the RTI Act is not available to the Petitioner in the facts of the present case. Even if it is assumed that 20 years have passed, in such cases the right of privacy for these officers, who can be exposed to grave risk, cannot be diverged to an accused and that too when the accused has been convicted and sentenced to death penalty.

10. The Petitioner has not brought out any case as to what public interest would be served by giving such information as sought for by the Petitioner



2024:DHC:1779



which would outweigh the protected interest under Section 8(1)(j) of the RTI Act. Rather in the facts of this case, the protected interest is in the nature of danger to the life and property of the officers who were involved in the investigation relating to the Petitioner and that disclosing their information to the Petitioner would certainly outweigh the public interest that has been claimed.

11. The Petitioner claims that the personal information can be granted to him because the information has been sought after 20 years from the date of appointment of the officers concerned.

12. As rightly pointed out by the Ld. CIC, in the present case, the public interest would lie in not disclosing the names and details of the officers concerned to protect their life and property and there is no public interest in disclosing the details of the officers concerned regarding their appointment, which is sought for by the Petitioner.

13. In view of the above, this Court is not inclined to interfere with the Impugned Order passed by the Ld. CIC. Resultantly, the writ petitions are dismissed, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

FEBRUARY 28, 2024

S. Zakir