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

\+ **W.P.(C) 6512/2016 and CM APPL. 28193/2016**

Date of Decision: **13.05.2026**

IN THE MATTERS OF:

STEEL AUTHORITY OF INDIA LTD.
ISPAT BHAWAN, LODHI ROAD,
NEW DELHI - 110003

......PETITIONER

(Through: Mr. Sharat Kapoor and Ms. Bhavyah Garg, Advocates.)

Versus

SH. R.K. MISHRA,
6/16, EINSTEIN AVENUE,
B-ZONE, DURGAPUR,
DISTRICT- BURDWAN – 713205
WEST BENGAL

.... RESPONDENT

(Through: Mr. Bhakti Vardhan Singh, Advocate, Amicus Curie.)

\+ **W.P.(C) 6546/2016 and CM APPL. 28192/2016**

NATIONAL JOINT COMMITTEE FOR STEEL INDUSTRY
ISPAT BHAWAN, LODHI ROAD,
NEW DELHI – 110003

......PETITIONER

(Through: Mr. Sharat Kapoor and Ms. Bhavyah Garg, Advocates.)

Versus

SH. R.K. MISHRA
6/16, EINSTEIN AVENUE,
B-ZONE, DURGAPUR,
DISTRICT- BURDWAN – 713205
WEST BENGAL

......RESPONDENT NO.1

SH. M.D.N. PANICKER
D/81, SECTOR 18
ROURKELA, ORISSA

…. RESPONDENT NO. 2

(Through: Mr. Nishi Kant Singh, Advocate for intervenor.
Mr. Bhakti Vardhan Singh, Advocate, Amicus Curie)

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

J U D G E M E N T

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. These petitions arise out of orders dated 24.12.2012 and 29.01.2016 passed by the Central Information Commission (hereinafter **"CIC"**) under the Right to Information Act, 2005 (hereinafter **"RTI Act, 2005"**), relating to disclosure of information concerning the National Joint Committee for Steel Industry (hereinafter **"NJCS"**) and Steel Authority of India Limited (hereinafter **"SAIL"**). Since both petitions arise from overlapping facts and involve common question of law, they are being decided together.

2. W.P.(C) 6546/2016 has been preferred by the NJCS, challenging the

orders, whereby, NJCS has been held to be a "*public authority*" within the meaning of Section 2(h) of the RTI, Act 2005.

3. W.P.(C) 6512/2016 has been preferred by SAIL, challenging the order dated 29.01.2016 passed by the CIC to the extent it directs disclosure of information pertaining to NJCS.

4. The first dispute arose from an RTI application dated 30.05.2012 preferred by respondent no. 2, namely Mr. M.D.N. Panicker, seeking a copy of the NJCS Rules relating to TA/DA for attending meetings. The Central Public Information Officer (hereinafter **"CPIO"**) of SAIL, *vide* communication dated 15.06.2012, denied the requested information on the ground that NJCS is an independent bipartite forum and is not a "public authority" under the RTI Act, 2005.

5. Being dissatisfied, the respondent no.2 approached the First Appellate Authority (hereinafter **"FAA"**). *Vide* order dated 31.07.2012 the FAA upheld the decision of the CPIO. Aggrieved thereby, respondent no. 2 preferred a second appeal before the CIC.

6. The CIC, *vide* order dated 24.12.2021, set aide the orders of CPIO and FAA and held that NCJS is a "*public authority*" under section 2(h)(d)(i) of the RTI Act on the reasoning that 80-85% of its funds were sourced from SAIL steel plants. Accordingly, the CIC directed the disclosure of the requested information.

7. Subsequently, the second dispute arose with another RTI application dated 22.10.2013 filed by respondent no. 1, namely, Mr. R.K. Mishra, seeking information on nine points pertaining to NJCS, including employee details, RTI compliance, website information, trade union demands, minutes of meetings, expenditure details and copies of certain resolutions.

The said application was transferred to the CPIO of SAIL on 25.10.2013.

8. The CPIO, *vide* reply dated 11.11.2013, denied disclosure of the information by stating that NJCS is an independent bipartite body. Reliance was placed on a resolution passed during the 247th meeting of NJCS held on 15.06.2007, wherein, it was resolved that information pertaining to NJCS would remain confidential and for internal circulation among member only.

9. The respondent no. 1 preferred a first appeal on 22.11.2013 before the FAA, which came to be rejected *vide* order dated 26.12.2013. The FAA observed that the information pertaining to NJCS was held in a fiduciary capacity and that no larger public interest warranted disclosure. Aggrieved thereby, respondent no. 1 preferred a second appeal before the CIC.

10. The CIC, *vide* order dated 29.01.2016, partly allowed the appeal. While it declined disclosure of certain information such as trade union demands and minutes of meetings on the grounds of fiduciary relationship and economic sensitivity, it directed disclosure of information at points 1,2,3,4 and 7 along with certified copies relating to points 8 and 9. The CIC also reiterated its earlier finding that NJCS is a "*public authority*" under Section 2(h) of RTI Act, 2005.

<u>Submissions</u>

11. Learned counsel appearing on behalf of the petitioner has advanced the following submissions: -

a. The CIC has fundamentally erred in declaring NJCS to be a "public authority". The NJCS is neither established nor constituted by or under the Constitution, by any law made Parliament or the State Legislature, nor by notification or order issued by the appropriate Government. The NJCS has evolved as a bipartite negotiating mechanism between management and workers' representatives and has, since 1971, functioned independently without governmental control.

b. The CIC has incorrectly equated contribution of funds by SAIL steel plants with "substantial financing" by the appropriate Government under Section 2(h) of RTI Act, 2005. The expression "controlled" under Section 2(h)(d)(i) must be understood as substantial, deep and pervasive control over affairs and management of body and not mere regulatory or supervisory presence.

c. The NJCS neither enjoys monopoly status conferred by the State nor performs any sovereign or statutory governmental function. It merely acts as a forum for collective bargaining and industrial negotiations between employers and workers in the steel industry. The information sought is exempt under Section 8(1)(d) and 8(1)(e) of RTI Act, 2005 as the same pertains to commercial confidence, economic interests and information held in fiduciary capacity.

d. The disclosure of information concerning demands raised by the trade unions and deliberations within NJCS would adversely affect the competing and negotiating position of the parties. The CIC has failed to follow the mandatory procedure contemplated under Section 11 of the RTI Act, 2005 before directing disclosure of information concerning NJCS.

e. Reliance has been placed upon the decision of the Supreme Court in ***Thalappalam Service Cooperative Bank Ltd. v. State of Kerala***[1] to contend that burden to establish that a body is substantially financed or controlled by the Government lies upon the applicant seeking information.

12. *Per contra*, learned counsel appearing on behalf of the respondents has submitted as under: -

a. The NJCS directly affects the service conditions and wage structure of more than one lakh employees and contract workers in the steel industry. The workers employed in SAIL plants are directly governed by wage settlements and decisions taken by NJCS and, therefore transparency, in its functioning is a matter of legitimate public concern.

b. The NJCS is substantially financed through contributions received from SAIL steel plants and, therefore, falls within the ambit of Section 2(h)(d)(i) of RTI Act, 2005. The composition of NJCS demonstrates substantial governmental control, inasmuch as, senior officials of SAIL and RINL, including Directors and Executive Heads of public sector steel plants, are integral members of the committee.

c. The resolutions passed in 247th meeting dated 15.06.2007 and subsequent meetings restricting dissemination of information demonstrate a deliberate attempt to exclude transparency and accountability. Further no information concerning NJCS is otherwise available in public domain and even affected worker remain dependent upon selected union representative for access to information regarding wage negotiations and resolutions.

d. The plea of fiduciary relationship is disputed, contending that there can be no fiduciary relationship between NJCS and the very

[1] (2013 16 SCC 82

employees whose service conditions and wages are determined through its deliberations. The information sought in points 1 to 4 and 7 to 9 is general in nature and does not pertain to any trade secret or commercially sensitive material.

e. The CPIO, in initial response dated 11.11.2013, did not invoke exemptions under Section 8(1)(d) or 8(1)(e) of RTI Act, 2005 and subsequent attempt to justify denial on such grounds is only an afterthought.

13. Learned Amicus Curie while assisting the Court has advanced following submissions: -

a. The principal objection raised by the petitioners regarding exemption under Section 8(1)(e) of the RTI Act, 2005 on the ground of fiduciary relationship is misconceived. Reliance is placed upon the decision of the Supreme Court in ***CBSE V. Aditya Bandhopadhya***[2] wherein, it was held that information held in fiduciary capacity may be protected against the disclosure to the third parties, however the same cannot be ordinarily withheld from the very beneficiaries whose interests are represented and protected by such fiduciary arrangements.

b. NJCS was constituted for the specific purpose of wage revision, welfare measures, industrial negotiations and service conditions concerning employees of the steel industry and, therefore, the employees themselves are direct beneficiaries of the functioning of NJCS. The representative of recognized trade unions from various steel plants forms part of the composition of NJCS, therefore, the workers cannot be treated as strangers or third parties *vis-à-vis* the information sought.

c. The information sought by the respondents substantially pertains to matters affecting employees at large, including expenditure incurred during wage negotiation, compliance with provisions of RTI Act, details of meetings and resolutions concerning dissemination of information. Such information cannot be characterized as confidential commercial secrets so as to attract exemption under Sections 8(1)(d) or 8(1)(e) of the RTI Act. 2005.

d. The composition, funding pattern and nature of functions discharged by NJCS indicate substantial financing and indirect governmental control. Approximately 80-85% of the funds of NJCS are contributed by SAIL steel plants, which themselves are instrumentalities of State and are substantially financed by Central Government.

e. The expression "*substantially financed*" does not necessarily require majority or complete financing by the Government and even indirect financing of considerable magnitude would suffice to bring an institution within the ambit of Section 2(h) of RTI Act, 2005.

f. The RTI Act, 2005 must lean in favour of transparency and accountability in public institution. Reliance has been placed upon the decision of the Supreme Court in ***State of U.P. v. Raj Narain***[3] to contend that citizens are entitled to know the manner in which public bodies functioning with public funds discharge their responsibilities.

14. I have heard learned counsel on behalf of the parties and have perused the record.

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[2] (2011) 8 SCC 497
[3] (1975) 4 SCC 428

Analysis

15. The controversy involved in the present petitions lies at intersection of two competing considerations. On the one hand is claim of confidentiality raised by the petitioners in respect of internal functioning and deliberative process of the NJCS and on the other is the statutory objective of RTI Act, 2005 which seeks to ensure transparency and accountability in bodies discharging functions affecting a large section of the public. The principal issue which arises for consideration before this Court is whether the NJCS can be brought within the ambit of "*public authority*" under Section 2(h) of the RTI Act, 2005 and consequentially, whether the information sought by the respondents is liable to be disclosed.

16. Before adverting to the submissions of the parties, it would be apposite to examine the scope and ambit of Section 2(h) of the RTI Act, 2005. Section 2(h) of the RTI Act, 2005 defines the expression "*public authority*", for perusal of the same, the aforesaid Section is extracted as under:

> *"2. Definitions. —In this Act, unless the context otherwise requires, —*
> *(h) "public authority" means any authority or body or institution of self-government established or constituted—*
> *(a) by or under the Constitution;*
> *(b) by any other law made by Parliament;*
> *(c) by any other law made by State Legislature;*
> *(d) by notification issued or order made by the appropriate Government, and includes any— (0 body owned, controlled or substantially financed;*
> *(ii) non-Government organisation substantially financed, directly or indirectly by funds provided by the appropriate Government;"*

17. A bare perusal of the aforenoted would indicate that the legislature has consciously employed a broad, inclusive and purposive meaning to the expression "*public authority*." The ambit of Section 2(h) is not confined

merely to bodies formally established under the Constitution or by a statutory enactment, but is extended to encompass bodies, institutions or organisations which, though not created directly by statue, are nevertheless owned, controlled or substantially financed, either directly or indirectly by the appropriate Government. The emphasis of Section 2(h) is not merely the source of creation of the body, but equally on the nature of governmental financing, control and functional nexus with public authorities.

18. At this stage it is necessary to note the nature and functioning of NJCS. Admittedly, NJCS was constituted in the year 1969 under the aegis of Ministry of Labour with the avowed objective of facilitating industrial peace and wage settlement in the steel industry. The petitioners have repeatedly emphasized that since 1971 the NJCS has functioned "independently" without governmental interference. Mere assertion of operational independence cannot by itself determine the applicability of Section 2(h) of the RTI Act, 2005. What is required to be examined is the cumulative effect of its composition.

19. The composition of NJCS itself demonstrates substantial participation of public sector steel undertakings, particularly SAIL and RINL, through their senior managerial and executive personnel. The petitioners' themselves in W.P.(C)6512/2016 under the heading Brief facts in point I onwards has admitted as extracted under:

> *"The NJCS decides its own terms of reference from time to time. The scope of working of the Committee has been widened from time to time and now covers:*
> *(i) Negotiation for wage agreement and its implementation;*
> *(ii) Matters pertaining to and steps to be taken for increase in production, productivity, improvement in quality, reduction of cost and wastage etc.*
> *(iii) Review of welfare amenities and facilities;*
> *(iv) Matters on which it is necessary to draw the attention of the*

Government; and
v) Any other matter pertaining to steel industry and its employees, as may be agreed to in the NJCS, from time to time.
The National Joint Committee for Steel Industries consists of members from both employee's and employer's side i.e three persons each from four Central Trade Union organizations of INTUC, AITUC, HMS and CITU and one person each from the recognized trade unions of Bhilai Steel Plant(BSP), Durgapur Steel Plant(DSP), Rourkela Steel Plant(RSP), Bokaro Steel Plant(BSL), IISCO Steel Plant(ISP), Alloy Steels Plant(ASP), Salem Steel Plant(SSP), Visvesvarya Iron & Steel Plant(VISL), Chandrapur Ferro Alloy Plant(CFP) and Rashtriya Ispat Nigam Ltd.(RINL), Chief Executive Officers/Executive Directors of Steel Plants of BSP, DSP, RSP, BSL, ISP, ASP, SSP, VISE, CFP & Director (Personnel), RINL and Director (Finance) SAIL as members. Director (Personnel), SAIL is the Convenor- Member of the Committee."

20. The aforesaid admitted facts dispel the notion that the NJCS is a body functioning in isolation or as purely private arrangement between workmen and management. The functioning of NJCS is intertwined with the public sector steel undertakings and the deliberations, decisions taken within NJCS directly impact service conditions, wages and welfare measures concerning a substantial workforce employed in such public sector undertakings. Equally significant is the composition of NJCS, the committee comprises of trade unions, Chief Executive Officers, Executive Directors and senior functionaries of various SAIL steel plants and RINL. The active participation of such high-ranking officials of public sector undertakings cannot be viewed as merely incidental or ornamental. Rather, the same reflects institutional and functional nexus between NJCS and Government controlled entities. This alone, however, may not fully justify NJCS to be the public authority.

21. What is of utmost significance is the fact recorded in the order dated 24.12.2012, that 80-85% of the funds required for functioning of NJCS are contributed by SAIL steel plants. The petitioners have not placed on record

any material before this Court to dislodge the said factual finding. Once it stands established that overwhelming financial support for the functioning of NJCS emanates from the public sector undertakings substantially financed by the Central Government, the argument that NJCS is purely a private or autonomous body loses considerable force.

22. The Supreme Court in ***Thalappalam Service Cooperative Bank Ltd.*** has elaborately interpreted the expressions "*controlled*" and "*substantially financed*" occurring in Section 2(h) of the RTI Act, 2005. It has been unequivocally held that while determining whether a body constitutes a "*public authority*", the enquiry cannot be confined to the formal character or nomenclature of such body. The expressions "*controlled*" and "*substantially financed*" must receive a contextual interpretation bearing in mind the objective of the RTI Act, 2005. The Apex Court observed that the term "*control*" under Section 2(h) contemplates a degree of control which is substantial in nature and extends beyond mere regulatory and supervisory oversight.

23. Similarly, the expression "*substantially financed*" was held not to mean a complete or majority financing but real and material significance having a bearing on functioning and existence of the body. The requirements of section 2(h) must be based on cumulative assessment of nature of financing, degree of governmental involvement and functional relationship between the body and public authorities.

24. The Supreme Court in ***D.A.V. College Trust & Management Society v. Director of Public Instructions***[4] further explained the contours of Section 2(h) of RTI Act, 2005 and clarified that the expression "*substantially*

financed" cannot be interpreted in arithmetical sense. The test of "*public authority*" is not just confined to direct budgetary grants or complete financial dependence upon the government. Even indirect financing, if of such magnitude that materially enables the functioning of the body, may be sufficient to attract the provisions of the RTI Act, 2005.

25. This Court in the case of ***Batra Hospital & Medical Research Centre v. Central Information Commission & Anr***.[5] while examining the scope of Section 2(h) of RTI Act, 2005, reiterated that the expression "*substantial financing*" cannot be diluted to include every form of governmental concession, incentive or incidental support. The test of determination would be that whether the entity would "struggle to exist" on withdrawal of such financial aid.

26. In the considered, opinion of this Court, the NJCS satisfies the indicia of "*substantial financing*". The committee is neither functioning in isolation nor substantiated through voluntary private contributions independent of State-backed entities. Its activities are integrally connected with public sector steel undertakings, and the financial contributions made by SAIL steel plants cannot be divorced from the larger framework of governmental financing.

27. The 80-85% of financial contribution in the instant case is such that withdrawal of such support would materially impair and substantially affect the ability of NJCS to continue functioning in its present form and discharge the very functions for which it exists. The attempt of the petitioners to characterize such funding as "internal contribution" of member entities

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[4] (2019) 9 SCC 185
[5] W.P.(C) 658/2016 judgement dated 06.02.2018

overlooks the fact that the SAIL itself operates through public funds and public ownership.

28. The contention advanced on behalf of the respondents that the functioning of NJCS has significant public consequences holds substance. Wage revisions and industrial settlements negotiated within NJCS do not merely concern a closed private arrangement between few individuals. They affect the economic and service conditions of a very large workforce spread across multiple steel plants in the country. The workers whose wages allowances and service conditions are determined through NJCS cannot be denied access even to basic information concerning the functioning of the body that negotiates on their behalf.

29. The petitioners have strongly relied upon Section 8(1)(d) and Section 8(1)(e) of RTI Act, 2005 to contend that the information sought pertains to commercial confidence and fiduciary relationship. The Supreme Court in the case of ***CBSE v. Aditya Bnadopadhyay*** has dealt with exemption provisions engrafted under RTI Act, 2005, particularly the expression "information available to a person in his fiduciary relationship" occurring under Section 8(1)(e). The Court explained that a fiduciary relationship is one founded upon trust, confidence and an obligation to act for the benefit of another, where information is entrusted with an expectation of confidentiality and protection against disclosure to unrelated third parties.

30. The Court further observed that the exemption under Section 8(1)(e) cannot be construed so broadly as to defeat the underlying object of the RTI Act, 2005. Where the person seeking information is himself the beneficiary of the process or where the information directly concerns rights and interests of a class represented within the institution, the claim of fiduciary

confidentiality must be examined with greater scrutiny. The exemption under Section 8(1)(e) is intended to preserve genuine relationships founded upon trust and confidence and cannot be invoked as blanket justification to withhold information in matters carrying public importance or affecting rights and interests of larger body of persons.

31. In the facts of the instant case, the respondents are employees connected with the steel industry and are affected by the decisions and settlements arrived at within NJCS. Moreover, the information sought by the respondents substantially pertains to matters such as compliance with RTI obligations, expenditure incurred, website details, number of affected employees and copies of resolutions restricting dissemination of information. Such information, by no stretch, can be termed as trade secrets or commercially confidential material deserving absolute immunity from disclosure.

32. With respect to the apprehension expressed by petitioners that disclosure of all information may jeopardize negotiations under Section 8(1)(d), the same has already been adequately addressed by the CIC itself, which consciously declined disclosure of certain sensitive documents relating to trade union demands and minutes of deliberative meetings.

33. The impugned order dated 29.01.2016, thus, reflects a balanced approach. The CIC has not directed indiscriminate disclosure of every document sought by the respondents. On the contrary, it has protected information which, could affect the negotiating position or economic interests of the parties, while simultaneously directing disclosure of information of a general and administrative nature.

34. In the present case, the information directed to be disclosed relates to

the institutional functioning of NJCS itself and is not confidential commercial information supplied by unrelated third parties. No prejudice of such magnitude has been demonstrated so as to vitiate the impugned orders.

35. The RTI Act, 2005 is a legislation enacted to strengthen participatory democracy by promoting openness in the functioning of bodies supported by public resources. The Supreme Court in the case of ***State of U.P. v. Raj Narain*** recognized the principle of "right to know." In democratic system, the people are entitled to know how public institutions function and how decisions affecting them are taken. It was further observed that the right to know is necessary concomitant and that citizens cannot meaningfully exercise their participatory rights unless access to relevant information is ensured.

36. The Court cannot lose sight of the fact that the resolutions passed by NJCS restricting flow of information and limiting dissemination only amongst select members contributed substantially to the grievance raised by the respondents. While a deliberative body may preserve confidentiality over sensitive negotiations and bargaining positions, such confidentiality cannot extend to the complete exclusion of stakeholders from access to basic institutional information. The RTI Act, 2005 does not compel disclosure of every internal deliberation, rather, it seeks to ensure transparency.

37. In view of the aforesaid observations, this Court finds no perversity, jurisdictional error or manifest illegality in the conclusion arrived at by the CIC while holding NJCS to be a "*public authority*" under Section 2(h) of the RTI Act, 2005 *vide* order dated 24.12.2012.

38. The petitioners, therefore, are directed to comply with the order dated 29.01.2016 and provide information in certified copies to the respondents in

respect of point nos. 1,2,3,4, and 7. In respect of para 8 and 9 information is already provided.

39. Let certified copies of the same be given to the respondents within period of 45 days of the receipt of this order.

40. Let the petitioners to also provide information as directed in order dated 29.01.2016 within a period 45 of the receipt of this order.

41. With the aforesaid directions, the instant petitions along with pending application stands disposed of. No order as to costs.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

MAY 13, 2026
SS