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The Right To Information Act, 2005

Section 8(1)(j) in The Right To Information Act, 2005

Girish Ramchandra Deshpande vs Cen.Information Commr.& Ors on 3 October, 2012

Section 8(1) in The Right To Information Act, 2005

Section 19(3) in The Right To Information Act, 2005

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Central Information Commission

Rahmat Bano vs Chief Commissioner Of Income Tax ... on 13 November, 2020

Author: Neeraj Kumar Gupta

के िय सूचना आयोग
Central Information Commission
बाबा गंगनाथ माग, मुनिरका
Baba Gangnath Marg, Munirka
नई िद ि, New Delhi - 110067

ि तीय अपील सं ा / Second Appeal No. CIC/CCITJ/A/2019/108747

Rahmat Bano ... अपीलकता/Appellant

VERSUS
बनाम

The CPIO, O/o the Income Tax Officer, Ward No. 3(4), Room No. 89, Aayakar Bhawan, Paota C Road, Jodhpur, Rajasthan. ... ितवादी /Respondent

Relevant dates emerging from the appeal:

RTI : 28.11.2018 FA : 14.01.2019 SA : 25.02.2019
CPIO : 27.12.2018 FAO : 25.01.2019 Hearing : 06.11.2020

ORDER

1. The appellant filed an application under the Right to Information Act, 2005 (RTI Act) before the Central Public Information Officer (CPIO) O/o the Income Tax Officer, Ward No. 3(4), Room No. 89, Aayakar Bhawan, Paota C Road, Jodhpur, Rajasthan. The appellant seeking information photocopies of income-tax returns filed by Sh. Mohammed Rafique S/o Sh. Mohammed Ramjan for the period 2017 to 2018.

2. As the CPIO had not provided the requested information, the appellant filed the first appeal dated 14.01.2019 requesting that the information should be provided to her. The first appellate authority was ordered on 25.01.2019 and disposed of her first appeal. She filed a second appeal u/Section 19(3) of the RTI Act before the Commission on the ground that information has not been provided to her and requested the Commission to direct the respondent to provide complete and correct information.

Hearing:

3. The appellant was represented through her counsel Shri Rajak K. Haidar who attended the hearing through audio-call. The respondent, Shri Ramji Lal Meena, CPIO attended the hearing through audio-call.

4. The appellant submitted her written submissions dated nil and the same has been taken on record.
5. The representative of the appellant submitted that no information has been provided to the appellant by the respondent on her RTI application dated 28.11.2018. The representative of the appellant stated that she is entitled to get this information under the RTI Act.
6. The respondent referred to the CPIO reply dated 27.12.2018 and FAA order dated 25.01.2019 and stated that the information sought by the appellant is personal information of third party, which cannot be disclosed under the provisions of the RTI Act. The respondent further submitted that they have also sought consent from the husband of the appellant but he has denied providing his information to the appellant.

Decision:

7. The Commission, after hearing the submissions of both the parties and after perusal of records, observes that the information sought by the appellant regarding copies of income tax returns of her husband, etc. is personal information of third party, which cannot be disclosed under Section 8(1)(j) of the RTI Act. The Commission referred to the judgment of the Hon'ble Supreme Court of India in *Girish Ramchandra Deshpande vs. Central Information Commission & ors.* SLP(C) No. 27734 of 2012 dated 03/10/2012 wherein it was held as under:

14. "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."

However, making a distinction with the said judgment, the Division Bench of the Hon'ble High Court of M.P. in the matter of *Smt. Sunita Jain vs. Pawan Kumar Jain and others* W.A. No. 168/2015 and *Smt. Sunita Jain vs. Bharat Sanchar Nigam Limited and others* W.A. No. 170/2015 dated 15.05.2018 had in a matter where the information seeker had sought the salary details of her husband from the employer held as under:

"While dealing with the Section 8(1)(j) of the Act, we cannot lose sight of the fact that the appellant and the respondent No.1 are husband and wife and as a wife she is entitled to know what remuneration the respondent No.1 is getting. Present case is distinguishable from the case of *Girish Ramchandra Deshpande (supra)* and therefore the law laid down by their Lordships in the case of *Girish Ramchandra Deshpande (supra)* are not applicable in the present case. In view of the foregoing discussion, we allow the appeal and set aside the order passed by the Writ Court in W.P. No.341/2008. Similarly, the W.A. No.170/2015 is also allowed and the impugned order passed in W.P. No.1647/2008 is set aside."

8. Moreover, the Hon'ble High Court of Bombay (Nagpur Bench) in the matter of *Rajesh Ramachandra Kidile vs. Maharashtra SIC and Ors* in W.P. No. 1766 of 2016 dated 22.10.2018 held as under:

"8. Perusal of this application shows that the salary slips for the period mentioned in the application have been sought for by the Advocate. As rightly submitted by the learned counsel for the petitioner, the salary slips contain such details as deductions made from the salary, remittances made to the Bank by way of loan instalments, remittances made to the Income Tax Authority towards part payment of the Income Tax for the concerned month and other details relating to contributions made to Provident Fund, etc. It is here that the information contained in the salary slips as having the characteristic of personal nature. Any information which discloses, as for example, remittances made to the Income tax Department towards discharge of tax liability or to the Bank towards discharge of loan liability would constitute the personal information and would encroach upon the privacy of the person. Therefore as held by the Hon'ble Apex Court in the case of *Girish Ramachandra Deshpande (supra)* such an information could not be disclosed under the provisions of the RTI Act. This is all the more so when the information seeker is a person

who is totally stranger in blood or marital relationship to the person whose information he wants to lay his hands on. It would have been a different matter, had the information been sought by the wife of the petitioner in order to support her contention in a litigation, which she filed against her husband. In a litigation, where the issue involved is of maintenance of wife, the information relating to the salary details no longer remain confined to the category of personal information concerning both husband and wife, which is available with the husband hence accessible by the wife. But in the present case, as stated earlier, the application has not been filed by the wife.

9. Then, by the application filed under the provisions of the RTI Act, information regarding mere gross salary of the petitioner has not been sought and what have been sought are the details if the salary such as amounts relating to gross salary, take home salary and also all the deductions from the gross salary. It is such nature of the information sought which takes the present case towards the category of exempted information.

10. All these aspects of the matter have not been considered by the authority below and, therefore, I find that its order is patently illegal, not sustainable in the eyes of law."

9. Taking into consideration the aforementioned analysis and the judgments of the Higher Courts, the Commission directs the respondent to inform the appellant about the generic details of the net taxable income/gross income of her husband held and available with the Public Authority for the period 2017-2018, within a period of 15 working days from the date of receipt of this order.

10. The details/copy of income tax returns and other personal information of third party need not to be disclosed to the appellant except as mentioned at para no. 9 above.

11. With the above observations, the appeal is disposed of.

12. Copy of the decision be provided free of cost to the parties.

नीरज कुमार गुप्ता
Neeraj Kumar Gupta (नीरज गुप्ता)
सचिव
Information Commissioner (सूचना आयोग)
त

दिनांक / Date 06.11.2020

Authenticated true copy
(अभिमत सत्यापित प्रमाण)

S. C. Sharma (एस. सी. शर्मा),
Dy. Registrar (उप-पंजीयक),
(011-26105682)

Addresses of the parties:

1. The CPIO,
O/o the Income Tax Officer,
Ward No. 3(4), Nodal CPIO, RTI Cell,
Room No. 89, Aayakar Bhawan, Paota C Road,
Jodhpur, Rajasthan.
2. Rahmat Bano,

