



2025:DHC:616



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

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Date of Decision: 28.01.2025+ **W.P.(C) 9650/2018****PUBLIC INFORMATION OFFICER OFFICE OF DISTRICT**

.....Petitioner

Through: Mrs. Avnish Ahlawat, SC, GNCTD
along with Mr. Nitesh Kr. Singh, Ms.
Laavanya Kaushik, Ms. Aliza Alam,
Mr. Mohnish Sehrawat and Mr.
Amitoj Chadha, Advocates.

versus

MR. HARISH LAMBA

.....Respondent

Through: None.

CORAM:**HON'BLE MR. JUSTICE SACHIN DATTA****SACHIN DATTA, J. (ORAL)**

1. The present petition seeks to assails an order dated 13.07.2018 passed by the Central Information Commission (CIC). The said order has been passed in the conspectus of two Right to Information (RTI) applications dated 02.09.2016, submitted to the Chief Information Officer (under the RTI Act, 2005), Patiala House District Courts, New Delhi, for obtaining information in respect of the Court of Shri. Mukesh Kumar, ADJ-02, Room No.12, Patiala House Courts, New Delhi (hereinafter "*concerned ADJ-02*").

The information sought in the RTI application/s is as under:-

"i. During his tenure as ADJ in how many cases he has given ex-parte injunction order in cases represented by Advocate M/s. K.G Bansal & Company New Delhi.



ii. During his tenure as ADJ in how many cases Shri Mukesh Kumar ADJ has given ex-parte injunction orders in cases/ suits filed by KRBL Ltd. and (old name Khushi Ram Behari Lai) 5190 Lohari Gate Delhi - 110006.

Information required for these cases.

- a. Name & address of the parties against whom injunction order passed.
- b. Suit no. and date of filing such suit.
- c. Date of passing ex party injunction orders.
- d. Date of vacation of injunction orders.
- e. Date of passing of final orders where injunction is not vacated.”

2. The office of Public Information Officer (District and Sessions Judge), New Delhi District, Patiala House Courts, New Delhi vide letter dated 28.09.2016 informed the petitioner that the information sought by him has been denied on the ground that the same squarely falls under the purview of Section/s 8(1)(d) and (e) of the Right to Information Act, 2005 ('RTI Act').

3. The first appeal filed by the respondent before the First Appellate Authority (FAA) came to be dismissed vide order dated 09.11.2016. The FAA while dismissing the first appeal, took note of the Rule 7(vii) and (ix) framed under the Delhi District Courts (Right to Information) Rules, 2008 (hereinafter “DDC (RTI) Rules”) and held as under:-

“Rule 7: Exemption from disclosure of information: The Public Information Officer or the Assistant Public Information officer may not provide the information to the applicant on the following grounds:

(vii) The information is nonexistent and will be necessary to create it for supplying it to the applicant.

(viii) xxxxxx

(ix) The information amounts to analyzing the information for the applicant which does not form part of any existing record.



In my view, the information sought, in the present case, is exempted in Rule 7(vii) & (ix) of Delhi District Court (Right to Information) Rules, 2008 framed by Hon'ble High Court of Delhi because the information sought does not exist and it amounts to analyzing the information for the applicant which does not form part of any existing record of this institution i.e. District Court, Delhi.

As stated above, the appellant wanted information as to in how many cases Sh. Mukesh Kumar, Ld. ADJ has given ex parte injunction order in cases /suits represented by Advocate M/s K.G. Bansal and company New Delhi, name and addresses of the parties against whom injunction orders were passed, suit no., date of passing of orders, date of vacation of orders and date of passing of final orders where injunction was not vacated etc. It is relevant here to state that information in this form is not maintained in District Courts in relation to the work of any Judicial Officer. The court staff has information about the orders passed in individual cases but never data is maintained in the form as it is asked by the applicant. It has been so also mentioned in the reply received from the Ahlmad of the court concerned.

In view of the above, in my view, the information sought is exempt under Rule 7 (vii) & (ix) of Delhi District Court (Right to Information) Rules, 2008 framed by Hon'ble High Court of Delhi because the information sought is non existent and it amounts to analyzing the information for the applicant which does not form part of any existing record of this institution.

Thus, PIO was correct in refusing the information sought to the applicant but, as stated above, on wrong grounds of law.

In view of the above, this appeal has no merit and the same is dismissed. Copy of this order be given to the appellant as per rules.

This appeal stands disposed off accordingly.

File be consigned to record room."

4. Subsequently, a second appeal came to be filed by the respondent before the CIC. The CIC, after considering the statutory provisions, the scope and ambit of Rule 7 of the DDC (RTI) Rules and taking into account the legal position, passed the impugned order dated 13.07.2018, *inter alia*, stating as under :-



“20. Reverting to the facts of the present case, the onus to justify the denial of Information, rests upon the PIO. It has emerged from deliberations between parties that a comprehensive database of case management system already exists within the control of the public authority. Desired information can be culled out from the electronic database without loss of any substantial resource. Both the contentions put forth by PIO to deny information are ill conceived. Firstly, it altogether wrong to assume that the information sought is nonexistent. The information sought exists as vouched by public interface of case management database hosted on the website of public authority. Secondly, it is probable that the information may not be readily available in the form sought, however, this alone is not a ground to deny information. The RTI Act acknowledges change of form of information in course of disclosure. Section 7(9) of the RTI Act provides for furnishing information in the manner sought as far as practicable. This implies that the PIO cannot shy away from his statutory duty of furnishing information in the form sought. Only exception to the rule is that when the disclosure may involve expending of substantial resources of public authority; the requirement can be dispensed with but that will still enjoin the PIO to furnish information in the form as maintained.

21. Accordingly, the decision of FAA is set aside. The PIO is directed to furnish information sought to the appellant within 3 weeks of receipt of this decision. Compliance report shall be filed before the Commission within 2 weeks thereafter. The appeal is allowed in aforesaid terms.

22. Let a copy of the decision be communicated to the Ld. Registrar General, Delhi High Court with a request to place the same before Hon’ble Chief Justice, High Court of Delhi for perusal and appropriate action as deemed fit.”

5. It is against the aforesaid order that the present petition has been filed by the petitioner.

6. This Court *vide* order dated 14.09.2018, observed that, *prima facie*, the queries raised in the RTI applications do not merely ask for any information, they inherently require an analytical exercise to be conducted for the purposes of the RTI applicant/respondent by the petitioner. The information as sought by the RTI applicant/respondent is neither maintained nor available in the format in which it is sought.



7. Learned counsel on behalf of the petitioner contends that the impugned order passed by the CIC gravely errs in directing the petitioner to “cull out” the requisite information since the data/records pertaining to the Court of the concerned ADJ-02 are voluminous and require manual segregation from available data to collate the information sought by the petitioner. It is submitted that not only is the aforesaid RTI applications in contravention to Rule 7(vii) and (ix) of the DDC(RTI) Rules but also beyond the purview of the Act, in terms of Section/s 8 (1)(d) and (e) thereof.

8. A perusal of the records also brings out that despite issuance of court notice to the counsel of respondent and respondent, since 12.04.2022, the respondent has not appeared in the present proceedings.

9. In the circumstances, the present petition is taken up for hearing and disposal, in the absence of the respondent.

10. Having gone through the records of the case and the relevant statutory provisions/Rules, I find merit in the contentions raised on behalf of the petitioner.

11. Section 2(f) of the RTI Act defines “Information” as under:-

“(f) “information” means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.”

12. The RTI queries made by the respondent require an analysis of the relevant judicial proceedings to ascertain (i) the nature of the prayers sought and as to whether any injunctive relief has been sought; (ii) the nature of the



order/s passed and whether the same tantamount to grant of an *ex-parte* injunction order; and (iii) analysis of judicial orders to ascertain whether the injunction orders have been vacated.

13. Such categorization cannot be done without conducting a detailed analysis of the legal proceedings in question and therefore, falls under the scope and ambit of Rule 7(vii) and (ix) framed under DDC (RTI) which enumerates that disclosure of information is exempted in circumstances wherein the information sought is either non-existent and requires to be necessarily created for being supplied or requires analysing of the information which does not form part of any existing records.

14. Moreover, such analysis is beyond the purview of “information” which can be supplied to an RTI applicant.

15. This Court *in Public Information Officer vs Mr. S.P Goyal*, 2019: DHC:4770, has held that information pertaining to judicial functions cannot be obtained through a RTI application since there is a clear dichotomy between the judicial and administrative functions of a court, wherein both are independent of each other and only the latter falls under the ambit of RTI. It was also held that the Delhi Court Rules will prevail over the RTI Act. The relevant portion of the said judgment reads as under:

“16. Reference in this context may be had to the judgment of the Coordinate Bench of this Court in the case The Registrar, Supreme court of India vs. R.S. Mishra(supra). This is also a case where the RTI applicant had sought information pertaining to a judicial matter in which the applicant himself was a party. The Court held as follows:

“45. Section 22 of the RTI Act has an overriding effect over other laws in case there are inconsistencies. However, Section 22 of the RTI Act does not contemplate to override those legislations, which aims to ensure access to information.



46. In fact, it contemplates harmonious existence with the other enactments which, like the RTI Act, also provides for dissemination of information. In *Namit Sharma Vs. Union of India*, (2013) 1 SCC 745, the Supreme Court has held as under:-

“79. Let us now examine some other prerequisites of vital significance in the functioning of the Commission. In terms of Section 22 of this Act, the provisions of the Act are to be given effect to, notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923 and any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act. This Act is, therefore, to prevail over the specified Acts and even instruments. The same, however, is only to the extent of any inconsistency between the two. Thus, where the provisions of any other law can be applied harmoniously, without any conflict, the question of repugnancy would not arise.”

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THE JUDICIAL FUNCTIONING OF THE SUPREME COURT OF INDIA IS SEPARATE/ INDEPENDENT FROM ITS ADMINISTRATIVE FUNCTIONING. THE DISSEMINATION OF INFORMATION UNDER THE SCR IS A PART OF JUDICIAL FUNCTION, EXERCISE OF WHICH CANNOT BE TAKEN AWAY BY ANY STATUTE. THE SCR WOULD BE APPLICABLE WITH REGARD TO THE JUDICIAL FUNCTIONING OF THE SUPREME COURT; WHEREAS FOR THE ADMINISTRATIVE FUNCTIONING OF THE SUPREME COURT, THE RTI ACT WOULD BE APPLICABLE.

62. Also, the judicial functioning of the Supreme Court of India is separate/independent from its administrative functioning. In the opinion of this Court, the RTI Act cannot be resorted to in case the information relates to judicial functions, which can be challenged by way of an appeal or revision or review or by any other legal proceeding.

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71. Consequently, the decision to allow or deny inspection or to give copies of the judicial file is clearly a part of and/or in the course of discharge of judicial function.

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73. Consequently, the SCR would be applicable with regard to the judicial functioning of the Supreme Court; whereas for the administrative functioning of the Supreme Court, the RTI Act would be applicable and information could be provided under it. The dissemination of information under the SCR is a part of judicial function, exercise of which cannot be taken away by any statute. It is settled legal position that the legislature is not competent to take away the judicial powers of the court by statutory prohibition. The legislature cannot make law to deprive the courts of their legitimate judicial functions conferred under the procedure established by law.”

17. As per the above judgment, the judicial functions of a court are independent from the administrative function. The RTI Act cannot be resorted to in case information relates to a judicial function.

18. Even otherwise, this High Court under Section 28(1) of the RTI Act read with Article 232 of the Constitution of India has framed the Delhi District Courts (Right to Information) Rules, 2008. Rule 7 (iv), (v) and (vi) of the said Rules read as follows:-

“7. Exemption from disclosure of information: The Public Information Officer or the Assistant Public Information Officer may not provide the information to the applicant on the following grounds:

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(iv) The information amounts to intrusion in the judicial work of any court.

(v) The information amounts to overreaching a decision of any judicial body which was authorized to provide the information but has declined to do so.

(vi) The information to be sought relates to a judicial proceeding, or judicial functions or the matters incidental or ancillary thereto.

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19. Hence, in view of the above Rules, there is exemption from disclosure of information which pertains to judicial proceedings or judicial functions of the court. The application of the respondent seeking a copy of a document which forms part of the judicial record would clearly be exempted from Rule 7 of the aforementioned Rules. In fact the said court where the suit of the respondent is pending has by a judicial order declined to provide the said document to the petitioner.



20. I may note that the Co-ordinate Bench of this court in the above noted judgment of *The Registrar, Supreme Court of India v. R.S.Mishra (supra)* has held that the Supreme Court Rules are not inconsistent with the RTI Act and the same are not repealed by section 22 of the RTI Act. The court held as follows:

“45. Section 22 of the RTI Act has an overriding effect over other laws in case there are inconsistencies. However, Section 22 of the RTI Act does not contemplate to override those legislations, which aims to ensure access to information.

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48. Section 22 provides for repugnancy vis-a-vis provisions contained in the Official Secrets Act, 1923 and any other law for the time being in force, which other law, by virtue of the principle of *ejusdem generis*, would also have to be of the same nature as the Official Secrets Act, 1923, namely, a statute contemplating lack of transparency/access to information. [See: *F.C.I Vs. Yadav Engineer & Contractor*, (1982) 2 SCC 499, paras 4, 10, 12; *Ishwar Singh Bagga Vs. State of Rajasthan*, (1987) 1 SCC 101, para 9; and *State of U.P. Vs. Harish Chandra and Co.*, (1999) 1 SCC 63, para 10].

49. Since both the RTI Act, 2005 and the SCR aim at dissemination of information, there is no inherent inconsistency, other than the procedural inconsistency at the highest between the RTI Act and the SCR.

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53. The preamble shows that the RTI Act has been enacted only to make accessible to the citizens the information with the public authorities which hitherto was not available. Neither the Preamble of the RTI Act nor does any other provision of the Act disclose the purport of the RTI Act to provide additional mode for accessing information with the public authorities which has already formulated rules and schemes for making the said information available. Certainly, if the said rules, regulations and schemes do not provide for accessing information which has been made accessible under the RTI Act, resort can be had to the provision of the RTI Act but not to duplicate or to multiply the modes of accessing information.

54. This Court is further of the opinion that if any information can be accessed through the mechanism provided under another



2025:DHC:616



statute, then the provisions of the RTI Act cannot be resorted to as there is absence of the very basis for invoking the provisions of RTI Act, namely, lack of transparency. In other words, the provisions of RTI Act are not to be resorted to if the same are not actuated to achieve transparency.”

21. Hence, the Delhi Court Rules will prevail.”

16. In the above circumstances, the information sought by the respondent is clearly beyond the purview of RTI Act. Hence, the impugned order dated 13.07.2018 is clearly unsustainable. The same is, accordingly, set aside.

17. The present petition is disposed of in the above terms.

SACHIN DATTA, J

JANUARY 28, 2025/r, sl