

केन्द्रीय सूचना आयोग
Central Information Commission
बाबागंगनाथमार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नईदिल्ली, New Delhi – 110067

File No : [REDACTED]

[REDACTED]अपीलकर्ता/Appellant

VERSUS

बनाम

CPIO,

Office of the Income Tax Officer,
Ward-34(5), RTI Cell, Room No. 810,
8th Floor, E-2, Block Dr. Shyama
Prasad Mukherjee, Civic Centre, Pratyakash
Kar Bhawan, New Delhi-110002.

....प्रतिवादीगण /Respondent

Date of Hearing : 01/08/2023

Date of Decision : 01/08/2023

INFORMATION COMMISSIONER : Saroj Punhani

Relevant facts emerging from appeal:

RTI application filed on : 12/11/2022
CPIO replied on : 05/12/2022
First appeal filed on : 21/12/2022
First Appellate Authority order : 20/01/2023
2nd Appeal/Complaint dated : 10/02/2023

Information sought:

The Appellant filed an RTI application dated 12.11.2022 seeking the following information:

"Background:-

Following cases have been registered against me on complaint by [REDACTED]

[REDACTED] (my spouse): -

a) FIR against me and my family members u/s 498A/406/34 IPC PS: Budh Vihar, Rohini, Delhi.

b) Domestic Violence Case (PWDV 12,23): [REDACTED] in Rohini court, Delhi.

[REDACTED] has shown herself to be unemployed and incapable of earning and is claiming maintenance in above mentioned case (mentioned in (b)) but I have cognizance of the fact that she had been working even after willfully leaving matrimonial home and even after making complaint against me and my family.

Information required:

- 1. Kindly confirm if above PAN, Aadhar details about [REDACTED] are correct?*
- 2. Kindly confirm if above mentioned [REDACTED] has filed Income Tax Returns for the AY 2017-2018, 2018-19, 2019-2020, 2020-2021, 2021-2022 and 2022-2023?*
- 3. Kindly provide Gross Income and Net income for AY 2017-2018, 2018-19, 2019-2020, 2020-2021, 2021-2022 and 2022-2023?*
- 4. Please provide year in which ITR was filed for the first time against above mentioned PAN.*
- 5. Kindly provide copy of ITR for last 3 years i.e., AY2020-21, AY2021-22 and AY2022-23."*

The CPIO furnished a reply to the Appellant on 05.12.2022 stating as under:

"In this connection it is stated that the undersigned intended to disclose the above information or record or part thereof to the applicant, subject to the consent of the person whose information is to be disclosed, a letter u/s 11 of RTI Act, 2005 was issued to the third party for submission in writing or orally regarding whether the required information should be disclosed, or not.

The third party in her submission has submitted in writing where she has requested not to disclose the information being a personal detail. Since the third party has denied in writing to provide the said information, therefore, It is hereby stated that the information sought by you under the RTI Act, 2005 for [REDACTED]

D/o [REDACTED]

[REDACTED] cannot be provided as the information pertains to third party and no relation to any public activity or interest and the revelation of which can cause "unwarranted invasion" into the privacy of an individual. Therefore, your application under RTI, Act, 2005 is hereby rejected u/s 8(1)(j) of the RTI Act, 2005 and the same is disposed off accordingly."

Being dissatisfied, the Appellant filed a First Appeal dated 21.12.2022. FAA's order, dated 20.01.2023, upheld the reply of the CPIO.

Feeling aggrieved and dissatisfied, the Appellant approached the Commission with the instant Second Appeal.

Relevant Facts emerging during Hearing:

The following were present:-

Appellant: Present through Intra Video-Conference.

Respondent: Nisha, Inspector present through Intra Video-Conference.

At the outset, the Commission apprised the Appellant that the bench has come across multiple cases where the appellant has sought for the income details of his estranged wife in order to corroborate evidence in maintenance cases which are sub-judice and the Commission allows for disclosure of generic incomes details to the applicants in the spirit of RTI Act. In this regard, upon a query from the Commission regarding any matrimonial dispute or a pending maintenance case of the Appellant, he feebly responded positively; He, however invited attention of the bench to the fact that the matter is pending before the Ld. District Court and Ld. MM Court therefore, the information is sought as his estranged wife has filed a Court case under Domestic Violence Act and also with the claim for interim maintenance before the Civil Court. He added that even his wife had not given any correct information related to her income before the Ld. District Court.

The CPIO reiterated the contents of his reply, which states as under:-

"In this connection it is stated that the undersigned intended to disclose the above information or record or part thereof to the applicant, subject to the consent of the person whose information is to be disclosed, a letter u/s 11 of RTI Act, 2005 was issued to the third party for submission in writing or orally regarding whether the required information should be disclosed, or not.

The third party in her submission has submitted in writing where she has requested not to disclose the information being a personal detail. Since the third party has denied in writing to provide the said information, therefore, It is hereby stated that the information sought by you under the RTI Act, 2005 for [REDACTED]

[REDACTED] cannot be provided as the information pertains to third party".

The Respondent submitted that the FAA had also upheld the reply given by the CPIO.

Decision:

In furtherance of hearing proceedings, the Commission based on a perusal of the facts on record observes that this bench has dealt with cases bearing the factual matrix of a spouse seeking income tax details of another in pursuit of a matrimonial dispute and the stance that had been maintained by it so far is that the information sought for in the RTI Application pertains to the personal information of a third party and stands duly exempted under Section 8(1)(j) of the RTI Act. In this regard, the attention of the Appellant(s) has been drawn towards a judgment of the Hon'ble Supreme Court in the matter of **Central Public Information Officer, Supreme Court of India Vs. Subhash Chandra Agarwal in Civil Appeal No. 10044 of 2010 with Civil Appeal No. 10045 of 2010 and Civil Appeal No. 2683 of 2010** wherein the import of "personal information" envisaged under Section 8(1)(j) of RTI Act has been exemplified in the context of earlier ratios laid down by the same Court in the matter(s) of **Canara Bank Vs. C.S. Shyam in Civil Appeal No.22 of 2009; Girish Ramchandra Deshpande vs. Central Information Commissioner & Ors., (2013) 1 SCC 212 and R.K. Jain vs. Union of India & Anr., (2013) 14 SCC 794**. The following was thus held:

"59. Reading of the aforesaid judicial precedents, in our opinion, would indicate that personal records, including name, address, physical, mental and psychological status, marks obtained, grades and answer sheets, are all treated as

personal information. Similarly, professional records, including qualification, performance, evaluation reports, ACRs, disciplinary proceedings, etc. are all personal information. Medical records, treatment, choice of medicine, list of hospitals and doctors visited, findings recorded, including that of the family members, information relating to assets, liabilities, income tax returns, details of investments, lending and borrowing, etc. are personal information. Such personal information is entitled to protection from unwarranted invasion of privacy and conditional access is available when stipulation of larger public interest is satisfied. This list is indicative and not exhaustive...

Further, in matters concerning the disputes of a husband and wife, the Commission is guided by a judgment of the Hon'ble Delhi High Court in the matter of **Vijay Prakash vs. Union of India (W.P. (C) 803/2009)** dated **01.07.2009** wherein the Court observed that in private disputes such as the present one between a husband and wife "...The basic protection afforded by virtue of the exemption (from disclosure) enacted under Section 8(1)(j) cannot be lifted or disturbed.."

Similarly, in the matter of **Madhumala B. R. vs. ACIT, Ward 3(3)(1), Bangalore** based on the same facts in **File No. CIC/CCITB/A/2021/609570**, the attention of this bench was invited to the following cases filed by the Income Tax authorities in Bangalore with the Hon'ble High Court of Karnataka against the orders of the Commission wherein "gross income" of the spouse was allowed to be disclosed citing the right of maintenance:

1. *Jammula Padma Manjari* in W.P. No. 18778 of 2017 (CIC/BS/A/2016/001440-BJ)
2. *Gulsanober Bano* in W.P. No. 34625 of 2019 (CIC/CCITB/A/2017/180340-BJ)
3. *Neena Bhatnagar Mani* in W.P. No. 7367 of 2020 (CIC/CCITB/A/2018/106268-BJ)
4. *Chhavi Goel Nee Agarwal* in W.P. No. 7281 of 2020 (CIC/CCITB/A/2018/120646-BJ)
5. *Devyani Lakher* in W.P. No. 7453 of 2020 (CIC/PNBNK/A/2018/104442)
6. *Princy Amit Jain* in W.P. No. 11233 of 2020 (CIC/CCITB/A/2018/164565).

Nonetheless, since the averred Court cases are reportedly under an interim stay by the Karnataka High Court and the details of the arguments or further orders are not available on record, this bench has accepted the bar on disclosure thus far only in the *Madhumala* case.

Per contra, in the recent past this bench has met with the continuing reliance placed by a staggering number of applicants on the decision dated 06.11.2020 of

a coordinate bench of the Commission in the **Rahmat Bano** case, wherein the disclosure of the gross income was allowed to the estranged wife on the ground of sustenance and livelihood of the family. The said decision was premised on the judgments of two High Courts i.e 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 by Hon'ble MP High Court as well as *Rajesh Ramachandra Kidile vs. Maharashtra SIC and Ors in W.P. No. 1766 of 2016* dated 22.10.2018 by Hon'ble High Court of Bombay (Nagpur Bench). Thus, while making a reference to the ratio laid down in the Apex Court judgement in the **Girish Ramachandra** (supra) case it was held as under in the *Rahmat Bano* case:

"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.
Emphasis Supplied

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.”

In pursuance of the Appellant’s praying urging that the information is being requested for a maintenance case, applying the same yardstick as applicable to a wife in such cases, the Commission directs the CPIO to provide the “generic details of the net taxable income/gross income” of the estranged wife for the period as mentioned in the RTI application available with the Respondent as mentioned by the CPIO during hearing to the Appellant free of cost within 15 days from the date of receipt of this order. Further, as per the request of the Appellant, the CPIO should also make efforts in providing information of generic details w.r.t. current assessment year 2023-24 also. A compliance report to this effect shall be sent to the Commission by the CPIO immediately thereafter.

The appeal is disposed of accordingly.

Saroj Punhani (सरोज पुनहानि)
Information Commissioner (सूचना आयुक्त)

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रति)

(C.A. Joseph)

Dy. Registrar

011-26179548/ ca.joseph@nic.in

सी. ए. जोसेफ, उप-पंजीयक

दिनांक /