केन्द्रीय सूचना आयोग
Central Information Commission
बाबा गंगनाथ मार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

द्वितीय अपील संख्या / Second Appeal No. CIC/CCITB/A/2018/631956

Smt. Basavantamma ... अपीलकर्ता/Appellant

VERSUS
बनाम

The CPIO, O/o the Income Tax Officer, Ward No. 1(3),(4), ITO, North Wing, HMT Bhavan, Old Bellary Road, Bengaluru. ...प्रतिवादी /Respondent

Relevant dates emerging from the appeal:

RTI : 23-05-2018	FA : 07-07-2018	SA : 20-09-2018
CPIO : Not on record	FAO : 27-07-2018	Hearing : 10-07-2020

O R D E R

1. The appellant filed an application under the Right to Information Act, 2005 (RTI Act) before the Central Public Information Officer (CPIO), Principal Chief Commissioner of Income Tax (CCA), Bangalore seeking income tax details of her estranged husband, Mr. G H Sharanappa.

2. As the CPIO had not given a reply to the appellant within a period of 30 days, she filed the first appeal dated 07-07-2018 which was disposed of by the first appellate authority on 27-07-2018. Thereafter, she filed a second appeal u/Section 19(3) of the RTI Act before the Commission requesting to take appropriate legal action against the CPIO u/Section 20 of the RTI Act, 2005 and also to direct him to provide the sought for information.

Hearing:

3. The appellant, Smt. Basavantamma was represented in the hearing through video conferencing. Mr. Paulia C N, ITO participated in the hearing representing the respondent through video conferencing. The written submissions are taken on record.

4. It was submitted on behalf of the appellant that the details of the income tax returns of her estranged husband, Mr. G H Sharanappa as on the date of RTI application should be disclosed to her. Further, it was requested to provide at least the gross income of Mr. G H Sharanappa to defend her maintenance case.

5. The respondent contended that the appellant had not mentioned any specific time period for which the information is being sought. However, the income tax returns are available online for a period of six years. Further, he submitted that the Income Tax Returns of some other individual is an exempted information u/Section 8(1)(j) of the RTI Act, 2005 and therefore, they have denied this information to the appellant.

Decision:

6. With regards to the applicability of Section 8(1)(j) of the RTI Act, 2005 regarding non-disclosure of the Income Tax Returns, this Commission refers to the judgment dated 03-10-2012 of the **Hon'ble Supreme Court of India** in SLP(C) No. 27734 of 2012 titled as **Girish Ramchandra Deshpande v. Central Information Commission & ors.**, wherein, it has been held as under:-

> "12. The petitioner herein sought for copies of all memos, show cause notices and censure/punishment awarded to the third respondent from his employer and also details viz. movable and immovable properties and also the details of his investments, lending and borrowing from Banks and other financial institutions. Further, he has also sought for the details of gifts stated to have accepted by the third respondent, his family members and friends and relatives at the marriage of his son. The information mostly sought for finds a place in the income tax returns of the third respondent. The question that has come up for consideration is whether the abovementioned information sought for qualifies to be "personal information" as defined in clause (j) of Section 8(1) of the RTI Act.
>
> 13. We are in agreement with the CIC and the courts below that the details called for by the petitioner i.e. copies of all memos issued to the third respondent, show cause notices and orders of censure/punishment etc. are qualified to be personal information as defined in clause (j) of Section 8(1) of the RTI Act. The performance of an employee/officer in an organization is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression "personal information", the disclosure of which has no relationship to any public activity or public interest. On the

> other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual. Of course, in a given case, if the Central Public Information Officer or the State Public Information Officer of the Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information, appropriate orders could be passed but the petitioner cannot claim those details as a matter of right.
>
> 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."

7. Henceforth, the legal issue to be decided herein is whether the appellant claiming to be the legally wedded wife of Mr. G H Sharanappa is entitled to seek details of his income tax returns. In this regard, it is apt to mention the decision dated 01-07-2009 of the **Hon'ble High Court of Delhi** in W.P.(C) 803/2009 titled as **Vijay Prakash v. UOI & others** wherein it has been clarified that in a private dispute between 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 unless the petitioner is able to justify how such disclosure would be in 'public interest'. In the matter at hand, the appellant has not succeeded in establishing that the information sought is for larger public purpose.

8. Since filing of the Income Tax Returns by an individual with the Income Tax Department is not a public activity and rather it is in the nature of an obligation which a citizen owes to the State viz. to pay his taxes, this information cannot be disclosed to the appellant in the absence of any larger public interest relying on the legal principle enunciated in the judgment dated 11-06-2015 rendered by the **Hon'ble Bombay High Court** in Writ Petition No. 8753 of 2013 titled as **Shailesh Gandhi v. The Central Information Commission**, wherein, it has been observed as follows:-

> "16…The Petitioner possibly being aware of the said position has therefore sought to contend that filing of the Income Tax Returns is a public activity. I am afraid the said contention is thoroughly misconceived as filing of Income Tax Returns can be no stretch of imagination be said to be a public activity, but is an obligation which a citizen owes to the State viz. to pay his taxes and since the said information is held by the Income Tax Department in a

fiduciary capacity, the same cannot be directed to be revealed unless the pre-requisites for the same are satisfied."

9. The Hon'ble High Court of Delhi in the decision of **Naresh Kumar Trehan v. Rakesh Kumar Gupta** in W.P.(C) 85/2010 & CM Nos.156/2010 & 5560/2011 dated 24-11-2014 has observed as under:-

"25. Indisputably, Section 8(1)(j) of the Act would be applicable to the information pertaining to Dr Naresh Trehan (petitioner in W.P.(C) 88/2010) and the information contained in the income tax returns would be personal information under Section 8(1)(j) of the Act. However, the CIC directed disclosure of information of Dr Trehan also by concluding that income tax returns and information provided for assessment was in relation to a "public activity." In my view, this is wholly erroneous and unmerited. The act of filing returns with the department cannot be construed as public activity. The expression "public activity" would mean activities of a public nature and not necessarily act done in compliance of a statute. The expression "public activity" would denote activity done for the public and/or in some manner available for participation by public or some section of public. There is no public activity involved in filing a return or an individual pursuing his assessment with the income tax authorities. In this view, the information relating to individual assessee could not be disclosed. Unless, the CIC held that the same was justified "in the larger public interest."

10. The division bench of the **Hon'ble High Court of Delhi** in the decision of **Harish Kumar v. Provost Marshall cum Appellate Authority & Anr**, LPA No. 253/2012 dated 30-03-2012 while denying information in a matrimonial dispute has held as under:-

"11. A Division Bench of this Court in Paardarshita Public Welfare Foundation Vs. UOI AIR 2011 Del. 82, in the context of Section 8(1)(j) (supra) and relying upon Gobind Vs. State of Madhya Pradesh (1975) 2 SCC 148, Rajagopal Vs. State of Tamil Nadu (1994) 6 SCC 632 and Collector Vs. Canara Bank (2005) 1 SCC 496 has held right to privacy to be a sacrosanct facet of Article 21 of the Constitution of India. It was further held that when any personal information sought has no nexus with any public activity or interest, the same is not to be provided. Finding the information sought in that case to be even remotely having no relationship with any public activity or interest and rather being a direct invasion in private life of another, information was denied. The full bench of this Court also in Secretary General, Supreme Court of India Vs. Subhash Chandra Agarwal AIR 2010 Del. 159 has held that the conflict between the

right to personal privacy and public interest in the disclosure of personal information is recognized by the legislature by incorporating Section 8(1)(j) of the Act. It was further observed that personal information including tax returns, medical records etc. cannot be disclosed unless the bar against disclosure is lifted by establishing sufficient public interest in disclosure and disclosure even then can be made only after duly notifying the third party and after considering his views."

11. At this juncture, this Commission deems it appropriate to quote Section 2(n) of the RTI Act, 2005 which reads as under:-

"2(n):- "third party" means a person other than the citizen making a request for information and includes a public authority."

12. From the words circumscribed u/Section 2(n) of the RTI Act, 2005, it is vividly clear that any person other than the citizen making a request for information can be termed as 'third party'. Therefore, Mr. G H Sharanappa being a person other than the RTI applicant surely comes within the definition of 'third party'. Moreover, the CPIO has also not intended to disclose the information treating it as confidential and has rather pleaded that there is no public interest in the matter. This Commission also does not find any public interest which outweighs the harm caused in its disclosure.

13. This Commission also refers to the judgment of the **Hon'ble Supreme Court of India** in Civil Appeal No. 10044 of 2010 & Ors. dated 13-11-2019 titled as **CPIO, Supreme Court of India v. Subhash Chandra Agarwal**, wherein, it was observed as follows:-

"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."

14. In light of the aforesaid decisions and the legal principles enunciated therein, this Commission after considering the factual matrix of the case is of the opinion that in the absence of any larger public interest in the matter, the appellant is not entitled to seek the details of the Income Tax Returns filed by the third party, Mr. G H Sharanappa which is exempted u/Section 8(1)(j) of the RTI Act, 2005.

15. It is to be noted that the appellant has requested this Commission for disclosure of at least the 'gross income' of Mr. G H Sharanappa so that she could defend her matrimonial case. Therefore, considering the aspect of marital discord between the husband and wife vis-à-vis her right of maintenance, this Commission is of the opinion that the respondent should consider providing only the limited information of the last six years i.e. the numerical figure(s) of the 'gross income' of her husband, Mr. G H Sharanappa, within a period of 15 working days from the date of receipt of this order.

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

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

Neeraj Kumar Gupta (नीरज कुमार गुप्ता)
Information Commissioner (सूचना आयुक्त)

दिनांक / Date:- 10-07-2020

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रति)
S. C. Sharma (एस. सी. शर्मा),
Dy. Registrar (उप-पंजीयक),**(011-26105682)**

Addresses of the parties:

1. The CPIO & DGM,
   O/o the Income Tax Officer,
   Ward No. 1(3),(4), ITO & Nodal CPIO,
   RTI Cell, 6th Floor, North Wing, HMT Bhavan,
   Old Bellary Road, Bengaluru-560032.

2. Smt. Basavantamma,