

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

File No : CIC/CCITD/A/2023/622483

YASH MALHOTRA

.....अपीलकर्ता/**Appellant**

VERSUS

बनाम

**CPIO,
Income Tax Department, ward
no. 58 /7/ Room No 213 D
Second floor Vikas Bhawan,
IP Estare New Delhi-110002.**

....प्रतिवादीगण /**Respondent**

Date of Hearing : 27/09/2023
Date of Decision : 27/09/2023

INFORMATION COMMISSIONER : Saroj Punhani

Relevant facts emerging from appeal:

RTI application filed on : 10/10/2022
CPIO replied on : 28/12/2022
First appeal filed on : 09/01/2023
First Appellate Authority order : 07/02/2023
2nd Appeal/Complaint dated : 04/05/2023

Information sought:

The Appellant filed an RTI application dated 10.10.2022 seeking the following information:

"I am filing this RTI application in respect to the income details of my wife. Gross Income/Net income of my wife. Sonal Dhingra – PAN No. BAOPD5266L from AY 2019-20, 2020-21 and 2021-22."

The CPIO furnished a reply to the appellant on 02.02.2023 and denied the information under Section 8(1)(j) of RTI Act.

Being dissatisfied, the appellant filed a First Appeal dated 16.02.2023. FAA's order, dated 07.02.2023, upheld the reply of the CPIO with the following observation-

"As discussed above, the application was disposed off by the concerned CPIO, ITO Ward 58(7), New Delhi and information was rightly denied in view of the Hon'ble Supreme Court decision in the case of Girish Ramchandra Deshpande Vs Central Information Commission & Ors (SLP 27734 of 2012 dated 03.10.2012 and since information relates to personal information, the disclosure of which has no relationship to any public activity or interest. Accordingly, the appeal is dismissed and disposed of accordingly."

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

Relevant Facts emerging during Hearing:

The following were present:-

Appellant: Represented by Adv. Anmol Malhotra present in person.

Respondent: Prem Prakash Mehra, ITO Ward 58(7) & CPIO present in person.

Third Party: Represented by Anuj Dhingra, present in person.

The written submissions filed by the Appellant and the Respondent prior to the hearing are taken on record.

The Appellant stated that he has sought the income related details of his estranged wife to corroborate evidence pertaining to a maintenance case pending against him before the Court of Law. However, he is aggrieved with the fact that the information was wrongly denied by the CPIO under the garb of Section 8(1)(j) of RTI Act. He urged the Commission for relief to be granted in the matter.

The CPIO submitted that since the information sought by the Appellant pertains to the personal information of the third party; therefore, it was denied to him by invoking Section 8(1)(j) of RTI Act.

The Rep. of third party stated that since such records have already been produced before the Civil Court during pendency of maintenance case; therefore, seeking such information through RTI channel won't serve any public interest, as such.

Decision:

At the outset, it is noteworthy that this bench has dealt with cases bearing the same factual matrix and the stance that has 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."

Therefore, applying the same yardsticks in favour of the husbands in pursuance of the Appellant's plea during the hearing that the information is being requested for corroborating the evidence in a maintenance case pending against him, the

Commission directs the CPIO to provide **only** the “generic details of the net taxable income/gross income” of the Appellant’s wife for the specified time period as contained in the RTI Application to the Appellant free of cost within 15 days from the date of receipt of this order. A compliance report to this effect shall be sent to the Commission by the CPIO immediately thereafter within 7 days.

The appeal is disposed of accordingly.

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

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रति)

(C.A. Joseph)
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