



2024:CGHC:48199

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 2874 of 2016

1 - The Ombudsman Mahatma Gandhi National Rural Employment Guarantee Act And Public Information Officer Through Mahendra Mahawar, Zila Panchayat, Jagdalpur, District- Bastar, Chhattisgarh, Chhattisgarh

... Petitioner

versus

1 - C. G. State Information Commissioner Through The Secretary, Nirmal Chaya Bhawan Meeradatar Raod, Shanker Nagar, Raipur, District Raipur, Chhattisgarh, Chhattisgarh

2 - Chief Executive Officer, Zila Panchayat, Jagdalpur, District Bastar, Chhattisgarh

3 - Shri Birbal Ratre R/o Gram Panchayat Raj Nagar, Block- Bakawand, District- Bastar, chhattisgarh

... Respondents

For Petitioner	: Shri Keshav Dewangan, Advocate.
For Respondent No. 1	: Shri Shyam Sundar Lal Tekchandani, Advocate.
For Respondent no. 2	: Shri C. Jayant K. Rao, Advocate
For Respondent No. 3	: None

Hon'ble Shri Bibhu Datta Guru, Judge

Order on Board

03.12.2024

1. By the present writ petition, the Ombudsman Mahatma Gandhi National Rural Employment Guarantee Act and Public Information Officer questioning the order dated 30.08.2016 passed by respondent No. 1/ C.G State Information Commissioner, by which the respondent no. 1 has directed the petitioner to provide the information sought by respondent no. 3.
2. The brief facts of the case is that the respondent no. 3 on 19.08.2015 moved an application under the provisions of Right to Information Act (hereinafter referred to as 'Act') and sought information from respondent no. 2 /Chief Executive Officer, Zila Panchayat Jagdalpur (C.G.) about the copy of all the complaints filed before the Lokpal from 1st of January 2015 till date, copy of all the enquiry reports, notesheets and statements recorded during the course of enquiry by the Lokpal in which enquiry has been concluded. Pursuance to the said application the respondent no. 2 forwarded the said application to the petitioner vide memo dated 24.08.2015. On receipt of the memo 24.08.2015, the petitioner replied to the same and submitted that under the provision of MGNREGA Act he is under obligation to keep all the information in his possession to be secret and cannot be disclose the same to any person. It is also replied that provision of Section 8 of the RTI Act has exempted such information to disclose to anyone under the RTI

Act. When the information was not provided, the respondent no. 3 moved an appeal before the respondent no. 2, but when the said appeal was not decided, he preferred a second appeal before the respondent no. 1. the respondent No. 1 vide order dated 19.08.2015 directed the petitioner to provide information sought by the respondent no. 3 within a period of 30 days. The present writ petition is questioning the order dated 30.08.2016.

3. Learned counsel for the petitioner submits that the petitioner is discharging the Act of Court and being a Court the petitioner is not under obligation to provide the details sought by the respondent no. 3 under the RTI Act. He referred the Section 8 of the RTI and submits that even Section 8 of RTI Act provides the exemption from disclosure of information received by a person in fiduciary relationship. He also submits that Section (h) of Section 8 of RTI Act provide the exemption from disclosure of information which would impede the process of investigation or apprehension of prosecution of offenders. He would further submit that the Section 27 of the 'MGNREG Act' provide that if on receipt of any complaint regarding improper utilization of fund granted under the 'MGNREG Act', if the Central Government is satisfied that there is a prima facie case then it cause an investigation by an agency designated by it. The Ombudsman have been established under the 'MGNREG Act' with an objective for establishment of a system for redressal of girevance and disposal of the complaints relating to implementation of 'MGNREG Act' and is statutory in nature. Hence the order

impugned by which a direction has been made to petitioner to provide information to respondent no. 3 is absolutely illegal and contrary to the Act 2005.

4. Learned counsel for the respondent/Information Commissioner submits that Ombudsman shall be covered under the Right to Information Act, 2005. Nodal Department of the State Government shall notify Public Information Officer and Appellate Authority for this purpose. The order passed by the State Information Commissioner is just and proper.
5. I have heard both the parties and perused the document.
6. To examine whether the Act of Ombudsman will come under RTI Act, 2005 it will be appropriate to quote the relevant part of instructions on Ombudsman, which have been formulated under Section 27 of MGNREG Act with the objective of establishing a system for redressal of grievances and disposal of complaints relating to implementation of the MGNREG Act and the Schemes made under the Act by the States. Instruction 15.1 is relevant and the same is quoted below:-

15. Coverage of the Ombudsman under Right to Information Act, 2005:-

15.1. Ombudsman shall be covered under the Right to Information Act, 2005, Nodal department of the State Government shall notify Public Information Officer and Appellate Authority for this purpose.

7. The Instruction provides that the Ombudsman of the Mahatma Gandhi National Rural Employment Guarantee Act, 2005 provides that the Ombudsman are amenable to the Act, 2005 and any

information regarding the proceeding or Act of the Ombudsman can be provided to a information seeker under the RTI Act. Once the special Act 2005 i.e. Mahatma Gandhi National Rural Employment Guarantee Act, 2005 includes the Ombudsman under Act, 2005 the information sought under Right to Information Act has to be provided by the petitioner. As far as the contention of the petitioner that he is exempted from the Section 8 of RTI Act is concerned, from perusal of Section 8 of Right to Information Act, 2005, it does not prescribe any exemption to the Act of Ombudsman and there is no exemption at all to the information which is with the Ombudsman/the petitioner. Therefore, the Information Commissioner rightly directed the petitioner to provide the information sought by the respondent no. 3. There is no illegality and infirmity in the order dated 30.08.2016 passed by respondent no. 1.

8. Resultantly, the writ petition is dismissed.

Sd/-

(Bibhu Datta Guru)
Judge

Shoaib

Head Note:

- Ombudsman under the 'MGNREG Act' is amenable to RTI Act, 2005.
- 'मनरेगा (महात्मा गाँधी राष्ट्रीय ग्रामीण रोजगार गारंटी) अधिनियम' के अंतर्गत नियुक्त लोकपाल सूचना का अधिकार अधिनियम, 2005 के अध्याधीन है