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Court : Madhya Pradesh

Decided On : Jul-28-2014

Judge : Sujoy Paul

Appeal No. : Writ Petition No. 5394 of 2013

Appellant : Narendra Kumar Gupta

Respondent : Union of India

Advocate for Def. : Shri. Saurabh Jain

Advocate for Pet/Ap. : Shri. Nirmal Sharma

Judgement :

Sujoy Paul, J:

1. This petition filed under Article 226 of the Constitution challenges the orders passed by various authorities established under the Right to Information Act, 2005 (for brevity, the "RTI Act").

2. The petitioner preferred an application (Annexure P/4) under RTI Act before the Public Information Officer, seeking certain informations including affidavit of Devendra Gupta, bank statement and copy of Cheque No. 631401 dated 13.10.2000. The petitioner preferred another application dated 16.11.2011 stating that the petitioner's father Radha Vallabh Gupta and mother Smt. Satyawati Gupta

died on 25.4.2011 and 29.12.2005, respectively. Petitioners are three brothers, namely, Narendra Kumar, Yatendra Kumar and Devendra Kumar. Being real brothers, they are legal representatives of their parents. It is stated that the petitioner's brother Devendra Kumar has withdrawn certain amount from the Pension Saving Account of his father. The description of account is given in the said application. It was prayed that the documents desired by earlier application be provided to him. This application of the petitioner is rejected by order dated 17.12.2011 (Annexure P/3). The petitioner feeling aggrieved by this order preferred an appeal under the RTI Act. The appellate authority by order dated 1.2.2012 (Annexure P/2) rejected the said appeal. The original and appellate orders are called in question by the petitioner by preferring second appeal before Central Information Commission (CIC). The CIC by order dated 31.5.2013 rejected the appeal and affirmed the order of first appellate authority. These orders are put to test in this petition.

3. Shri Nirmal Sharma, learned counsel for the petitioner, submits that the rejection order is bad in law. The account holder, i.e. father of petitioner is no more and, therefore, section 11 of RTI Act, which deals with right and protection of third party, is not applicable. By placing reliance on the judgment of Supreme Court, reported in 2012 (13) SCC 61 (Bihar Public Service Commission v. Saiyed Hussain Abbas Rizwi and another), it is urged that Section 8(1)(d) and (j) of RTI Act is not an impediment in relation to the information and documents desired by the petitioner.

4. Shri Saurabh Jain, learned counsel for the respondents No.1 and 2 and Shri Arvind Agarwal, learned counsel for the Bank, supported the orders passed by the authorities below. It is urged by learned counsel for the Bank that as per Section 8(1)(d) and (j) of RTI Act, r/w Section 13 of Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, there is no illegality in the orders impugned, which warrants interference by this Court under Article 226 of the Constitution.

5. No other point is pressed by learned counsel for the parties.

6. I have heard learned counsel for the parties and perused the record.

7. I deem it proper to reproduce Section 8(1)(d) and (j) before dealing with the rival contentions advanced by the parties. The provisions read as under:-

"8. Exemption from disclosure of information.- (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen.-

(d) information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;

(j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information."

Section 11 of the RTI Act deals with third party information. The proviso to section 11 provides that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party.

8. It is true that the third party/petitioner's father, who was account holder, is no more. Yet, the question is whether the denial to provide these documents is in consonance with section 8 (1)(d) and (j) of the RTI Act ?

9. In Bihar PSC (supra), the Apex Court opined as under :-

"In terms of this provision, information which relates to personal information, the disclosure of which has no relationship to any public activity or interest or which would cause unwarranted invasion of the privacy of the individual would fall within the exempted category, unless the authority concerned is satisfied that larger public interest justifies the disclosure of such information. It is, therefore, to be understood clearly that it is a statutory exemption which must operate as a rule and only in exceptional cases would disclosure be permitted, that too, for reasons

to be recorded demonstrating satisfaction to the test of larger public interest. It will not be in consonance with the spirit of these provisions, if in a mechanical manner, directions are passed by the appropriate authority to disclose information which may be protected in terms of the above provisions. All information which has come to the notice of or on record of a person holding fiduciary relationship with another and but for such capacity, such information, such information would not have been provided to that authority, would normally need to be protected and would not be open to disclosure keeping the higher standards of integrity and confidentiality of such relationship. Such exemption would be available to such authority or department."

10. In 2013 AIR SCW 2341 (R.K.Jain v. Union of India), the Apex Court opined as under:-

"12. Section 8 deals with exemption from disclosure of information. Under clause (j) of Section 8(1), there shall be no obligation to give any citizen information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless 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."

(Emphasis supplied)

11. Petitioner is unable to show that the information desired has any relation with public activity or interest. In absence thereof, no fault can be found in the impugned orders. Petition fails and is hereby dismissed. No costs.

Petition dismissed.

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