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Arvind Kejriwal Vs. Central Public Information Officer and anr.

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Court : Delhi

Decided On : Sep-30-2011

Judge : Sanjiv Khanna, J.

Acts : Right to Information Act (RTI), 2005 - Sections 11, 2(n), 9, 8; Official Secrets Act, 1923; Freedom to Information Act, 2002 - Section 8

Appeal No. : LPA No. 719/2010; LPA No. 291/2011; LPA No. 292/2011

Appellant : Arvind Kejriwal

Respondent : Central Public Information Officer and anr.

Advocate for Def. : Mr. S.K. Dubey, Adv.

Advocate for Pet/Ap. : Mr. Prashant Bhushan; Mr. Pranav Sachdeva; Mr. Rishikesh Kumar, Advs.

Judgement :

1. These three connected intra court appeals assail the decision dated 30th July, 2010, disposing of the Writ Petition (Civil) No. 6614/2008 filed by the appellant and the Writ Petition (Civil) Nos. 8999/2008 and 8407/2009, filed by the Union of India. Some interim applications have also been disposed of by the impugned decision.

2. Facts of the case need not be stated in detail as the appellant has primarily questioned and challenged the interpretation of Section 11 of the Right to

Information Act, 2005 (Act, for short) in the impugned decision. In these circumstances, we refrain and do not go into the other aspects especially as by the impugned decision the matter has been remitted to Central Information Commission.

3. The Act in question was enacted on 15th June, 2005 for setting out a practical regime to enable citizens to secure access to information with the "public authorities" in order to ensure transparency and accountability. The Act ensures greater and more effective access to information and makes the Indian democracy more participatory and meaningful. The introductory note to the preamble of the Act itself stipulates as under:-

"AND WHEREAS democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed;

AND WHEREAS revelation of information in actual practice is likely to conflict with other public interest including efficient operations of the Governments, optimum use of limited fiscal resources and the presentation of confidentiality of sensitive information;

AND WHEREAS it is necessary to harmonise these conflicting interests while preserving the paramountcy of the democratic ideal;"

4. The Act provides for provisions to ensure maximum disclosure and grounds on which disclosure can be denied, the entire machinery and establishment of an appellate authority, i.e. the Central Information Commission (or "the CIC" for short), with the power to review decisions and penal provisions on failure to provide information as per law etc.

5. Section 11 of the Act has been given a marginal heading „third party information. The term „third party has been defined in Section 2(n) of the Act to mean any other person including a "public authority" except the citizen who makes a request for information. Thus, a public authority which has the information or access to the information can be a third person. Section 8 of the Act provides

exemptions when information is not to be furnished or given. To interpret Section 11, one has to keep in mind and also consider the exemptions provided in Section 8(1) of the Act. For the sake of convenience Section 2(n), Section 8 and Section 11 of the Act are reproduced below:-

"2. Definition-

....

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

X X X X

8. Exemption from disclosure of information:-

(1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,-

(a) information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;

(b) information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;

(c) information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;

(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;

(e) information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;

(f) information received in confidence from foreign Government;

(g) information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;

(h) information which would impede the process of investigation or apprehension or prosecution of offenders;

(i) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers:

Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over:

Provided further that those matters which come under the exemptions specified in this section shall not be disclosed;

(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:

Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.

(2) Notwithstanding anything in the Official Secrets Act, 1923 (19 of 1923) nor any of the exemptions permissible in accordance with sub-section (1), a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.

(3) Subject to the provisions of clauses (a), (c) and (i) of sub-section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years before the date on which any request is made

under secton 6 shall be provided to any person making a request under that section:

Provided that where any question arises as to the date from which the said period of twenty years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in this Act." X X X X

"11. Third party information.-

(1) Where a Central Public Information Officer or a State Public Information Officer, as the case may be, intends to disclose any information or record, or part thereof on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the Central Public Information Officer or State Public Information Officer, as the case may be, intends to disclose the information or record, or part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information:

Provided 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.

(2) Where a notice is served by the Central Public Information Officer or State Public Information Officer, as the case may be, under sub-section (1) to a third party in respect of any information or record or part thereof, the third party shall, within ten days from the date of receipt of such notice, be given the opportunity to make representation against the proposed disclosure.

(3) Notwithstanding anything contained in section 7, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within forty days after receipt of the request under section 6, if the third party has been given

an opportunity to make representation under sub-section (2), make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.

(4) A notice given under sub-section (3) shall include a statement that the third party to whom the notice is given is entitled to prefer an appeal under section 19 against the decision."

6. The core contention of the appellant is that the expression "relates to or has been supplied by a third party and has been treated as confidential by that third party" in Section 11(1) of the Act should be read as "relates to and has been supplied by a third party and has been treated as confidential by that third party". In other words, the word „or used in Section 11(1) should be read as „and. In support of the said contention, it is submitted that purposive and not literal interpretation is required and if a restricted or narrow interpretation is given then in all cases where information relates to third party, the Public Information Officer ("PIO" for short) would be required to issue notice to the third party or parties concerned. This may happen in most cases and it would make the Act unworkable. The appellant has pointed out instances like list of families below the poverty line, copy of contracts or bills etc. between the public authorities and third parties, marks obtained in a exam, admissions or even information which is already in public domain would attract the procedure stipulated in section 11 unless the word "or" is read as "and". It is submitted that in such cases, notices will have to be issued to third parties who may be spread all over India and this process itself may take days, if not months to be completed. Dealing with objections raised, in regard to the abovementioned procedure, would also make the Act tedious, result in procedural difficulties and delay furnishing of information and is therefore contrary to the legislative intent.

7. The word „or is normally disjunctive and the word „and is conjunctive. However, there have been occassions when the courts have interpreted and read them vice versa to give effect to the manifest intention of the Legislature as disclosed from the context. It is permissible to read word „or as „and and vice versa, if the legislative intent is clearly spelt out or some other part of the statute, requires such

interpretation (See Principles of Statutory Interpretation of G.P. Singh, 11h edition at page 455). In this context, we may reproduce the following passage from the Municipal Corporation of Delhi vs. Tek Chand Bhatia, AIR 1980 SC 360, wherein it has been held as under:-

"11. ...It should also be noted that these qualifying adjectives cannot be read into the last portion of the definition i.e. the word' "or is otherwise unfit for human consumption", which is quite separate and distinct from others. The word "otherwise" signifies unfitness for human consumption due to other causes. If the last portion is meant to mean something different, it becomes difficult to understand how the word "or" as used in the definition of "adulterated" in Section 2(i)(f) between "filthy, putrid, rotten etc." and "otherwise unfit for human consumption" could have been intended to be used conjunctively. It would be more appropriate in the context to read it disjunctively. In Stroud's Judicial Dictionary, 3rd Edn., Vol. 1, it is stated at p. 135: "„And has generally a cumulative sense, requiring the fulfilment of all the conditions that it joins together, and herein it is the antithesis of „or. Sometimes, however, even in such a connection, it is, by force of a context, read as „or."

While dealing with the topic „OR is read as AND, and vice versa, Stroud says in Vol. 3, at p. 2009:

"You will find it said in some cases that „or means „and; but „or never does mean „and."

Similarly, in Maxwell on Interpretation of Statutes, 11th Edn., pp. 229-30, it has been accepted that "to carry out the intention of the legislature, it is occasionally found necessary to read the conjunctions „or and „and one for the other". The word "or" is normally disjunctive and "and" is normally conjunctive, but at times they are read as vice versa. As Scrutton, L.J. said in Green v. Premier Glynrhonwy State Co.: "You do sometimes read "or" as "and" in a statute . . . . But you do not do it unless you are obliged, because "or" does not generally mean "and" and "and" does not generally mean "or". As Lord Halsbury L.C. observed in Mersey Docks & Harbour Board v. Henderson the reading of "or" as "and" is not to be resorted to "unless some other part of the same statute or the clear intention of it

requires that to be done". The substitution of conjunctions, however, has been sometimes made without sufficient reasons, and it has been doubted whether some of the cases of turning "or" into "and" and vice versa have not gone to the extreme limit of interpretation."

8. Similarly, in Competition Commission of India vs. Steel Authority of India Ltd. and Anr. (2010) 10 SCC 744, it has been held as under:-

"43. It is a settled principle of law that the words "or" and "and" may be read as vice versa but not normally.

"... You do sometimes read „or as „and in a statute. ... But you do not do it unless you are obliged, because „or does not generally mean „and and „and does not generally mean „or."

(Green v. Premier Glynrhonwy Slate Co., KB at p. 568.)

44. As pointed out by Lord Halsbury, the reading of "or" as "and" is not to be resorted to, "unless some other part of the same statute or the clear intention of it requires that to be done". (Mersey Docks and Harbour Board v. Henderson Bros., AC at p. 603.) The Court adopted with approval Lord Halsbury's principle and in fact went further by cautioning against substitution of conjunctions in MCD v. Tek Chand Bhatia, where the Court held as under: (SCC p. 163, para 11)

"11. ... As Lord Halsbury L.C. observed in Mersey Docks & Harbour Board v. Henderson Bros. (AC at p. 603) the reading of „or as „and is not to be resorted to „unless some other part of the same statute or the clear intention of it requires that to be done. The substitution of conjunctions, however, has been sometimes made without sufficient reasons, and it has been doubted whether some of the cases of turning „or into „and and vice versa have not gone to the extreme limit of interpretation."

9. The question, therefore, arises as to what is the legislative intent behind Section 11. The answer in regard the legislative intent is clear and reflected in the proviso which spells out the parameters when third party information can be furnished or denied to the information seeker. The said proviso has to be read with along with

the exemptions which have to be provided in Section 8 specially Section 8(1)(j) which permits denial/disclosure of personal information which has no relationship with any public activity or interest; or which causes unwarranted invasion of privacy of an individual unless larger public interest justifies disclosure of such information. The proviso to Section 11(1) states that the confidential information except in cases of trade or commercial secrets protected by law, shall be disclosed if public interest in disclosure outways any possible harm or injury to the interest of the third party. The proviso as well as Section 8(1)(j) requires balancing of two conflicting rights i.e. right to information and the right to confidentiality or privacy. Reference can also be made to section 8(1)(e) of the Act in this regard. Thus in such cases, which of the two conflicting right has to be given primacy depends upon larger public interest. This is the test which has to be applied.

10. This view which we have taken finds echo and concurrence in People's Union for Civil Liberties (PUCL) v. Union of India, (2003) 4 SCC 399, wherein it was opined :-

"69. Further, the freedom of speech and expression, as has been held repeatedly, is basic to and indivisible from a democratic polity. It includes right to impart and receive information. (Secy., Min. of Information & Broadcasting) Restriction to the said right could be only as provided in Article 19(2). This aspect is also discussed in SCC para 151 (p. 270) thus:

"151. Article 19(1)(a) declares that all citizens shall have the right of freedom of speech and expression. Clause (2) of Article 19, at the same time, provides that nothing in sub-clause (i) of clause (1) shall affect the operation of any existing law or prevent the State from making any law, insofar as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with the foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement of an offence. The grounds upon which reasonable restrictions can be placed upon the freedom of speech and expression are designed firstly to ensure that the said right is not exercised in such a manner as to threaten the sovereignty and integrity of India, security of the

State, friendly relations with the foreign States, public order, decency or morality. Similarly, the said right cannot be so exercised as to amount to contempt of court, defamation or incitement of an offence. Existing laws providing such restrictions are saved and the State is free to make laws in future imposing such restrictions. The grounds aforesaid are conceived in the interest of ensuring and maintaining conditions in which the said right can meaningfully and peacefully be exercised by the citizens of this country."

70. Hence, in our view, right of a voter to know the biodata of a candidate is the foundation of democracy. The old dictum -- let the people have the truth and the freedom to discuss it and all will go well with the Government -- should prevail.

71. The true test for deciding the validity of the Act is -- whether it takes away or abridges fundamental rights of the citizens. If there is direct abridgement of the fundamental right of freedom of speech and expression, the law would be invalid."

11. In Central Board of Secondary Education versus Aditya Bandopadhyay CA No. 6454 of 2011 decided on 9th August 2011, the Supreme Court has held:

"12. The RTI Act provides access to information held by or under the control of public authorities and not in regard to information held by any private person. The Act provides the following exclusions by way of exemptions and exceptions (under sections 8, 9 and 24) in regard to information held by public authorities:

(i) Exclusion of the Act in entirety under section 24 to intelligence and security organizations specified in the Second Schedule even though they may be "public authorities", (except in regard to information with reference to allegations of corruption and human rights violations).

(ii) Exemption of the several categories of information enumerated in section 8(1) of the Act which no public authority is under an obligation to give to any citizen, notwithstanding anything contained in the Act [however, in regard to the information exempted under clauses (d) and (e), the competent authority, and in regard to the information excluded under clause (j), Central Public Information Officer/State Public Information Officer/the Appellate Authority, may direct

disclosure of information, if larger public interest warrants or justifies the disclosure]. (iii) If any request for providing access to information involves an infringement of a copyright subsisting in a person other than the State, the Central/State Public Information Officer may reject the request under section 9 of RTI Act.

Having regard to the scheme of the RTI Act, the right of the citizens to access any information held or under the control of any public authority, should be read in harmony with the exclusions/exemptions in the Act.

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33. Some High Courts have held that section 8 of RTI Act is in the nature of an exception to section 3 which empowers the citizens with the right to information, which is a derivative from the freedom of speech; and that therefore section 8 should be construed strictly, literally and narrowly. This may not be the correct approach. The Act seeks to bring about a balance between two conflicting interests, as harmony between them is essential for preserving democracy. One is to bring about transparency and accountability by providing access to information under the control of public authorities. The other is to ensure that the revelation of information, in actual practice, does not conflict with other public interests which include efficient operation of the governments, optimum use of limited fiscal resources and preservation of confidentiality of sensitive information. The preamble to the Act specifically states that the object of the Act is to harmonise these two conflicting interests. While sections 3 and 4 seek to achieve the first objective, sections 8, 9, 10 and 11 seek to achieve the second objective. Therefore when section 8 exempts certain information from being disclosed, it should not be considered to be a fetter on the right to information, but as an equally important provision protecting other public interests essential for the fulfilment and preservation of democratic ideals.

34. When trying to ensure that the right to information does not conflict with several other public interests (which includes efficient operations of the governments, preservation of confidentiality of sensitive information, optimum use of limited fiscal resources, etc.), it is difficult to visualise and enumerate all types of

information which require to be exempted from disclosure in public interest. The legislature has however made an attempt to do so. The enumeration of exemptions is more exhaustive than the enumeration of exemptions attempted in the earlier Act that is section 8 of Freedom to Information Act, 2002. The Courts and Information Commissions enforcing the provisions of RTI Act have to adopt a purposive construction, involving a reasonable and balanced approach which harmonises the two objects of the Act, while interpreting section 8 and the other provisions of the Act.

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37. The right to information is a cherished right. Information and right to information are intended to be formidable tools in the hands of responsible citizens to fight corruption and to bring in transparency and accountability. The provisions of RTI Act should be enforced strictly and all efforts should be made to bring to light the necessary information under clause (b) of section 4(1) of the Act which relates to securing transparency and accountability in the working of public authorities and in discouraging corruption. But in regard to other information, (that is information other than those enumerated in section 4(1)(b) and (c) of the Act), equal importance and emphasis are given to other public interests (like confidentiality of sensitive information, fidelity and fiduciary relationships, efficient operation of governments, etc.). Indiscriminate and impractical demands or directions under RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counter-productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non- productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the

authorities under the RTI Act should not lead to employees of a public authorities prioritising `information furnishing', at the cost of their normal and regular duties."

[Emphasis supplied]

12. Section 11(1), (2), (3) and (4) are the procedural provisions which have to be complied with by the PIO/appellant authority, when they are required to apply the said test and give a finding whether information should be disclosed or not disclosed. If the said aspect is kept in mind, we feel there would be no difficulty in interpreting Section 11(1) and the so called difficulties or impartibility as pointed out by the appellant will evaporate and lose significance. This will be also in consonance with the primary rule of interpretation that the legislative intent is to be gathered from language employed in a statute which is normally the determining factor. The presumption is that the legislature has stated what it intended to state and has made no mistake. (See Prakash Nath Khanna vs. CIT, (2004) 9 SCC 686; and several judgments of Supreme Court cited in B. Premanand and Ors. vs. Mohan Koikal and Ors., (2011) 4 SCC 266).

13. Read in this manner, what is stipulated by Section 11(1) is that when an information seeker files an application which relates to or has been supplied by third party, the PIO has to examine whether the said information is treated as confidential or can be treated as confidential by the third party. If the answer is in the possible sphere of affirmative or "maybe yes", then the procedure prescribed in Section 11 has to be followed for determining whether the larger public interest requires such disclosure. When information per se or ex facie cannot be regarded as confidential, then the procedure under section 11 is not to be followed. All information relating to or furnished by a third party need not be confidential for various reasons including the factum that it is already in public domain or in circulation, right of third party is not affected or by law is required to be disclosed etc. The aforesaid interpretation takes care of the difficulties visualised by the appellant like marks obtained in an examination, list of BPL families, etc. In such cases, normally plea of privacy or confidentiality does not arise as the said list has either been made public, available in the public domain or has been already circulated to various third parties. On the other hand, in case the word „or is read

as „and, it may lead to difficulties and problems, including invasion of right of privacy/confidentiality of a third party. For example, a public authority may have in its records, medical reports or prescriptions relating to third person but which have not been supplied by the third person. If the interpretation given by the appellant is accepted then such information can be disclosed to the information seeker without following the procedure prescribed in Section 11(1) as the information was not furnished or supplied by the third person. Such examples can be multiplied. Furthermore, the difficulties and anomalies pointed out can even arise when the word "or" is read as "and" in cases where the information is furnished by the third party. For example, for being enrolled as a BPL family, information may have been furnished by the third party who is in the list of BPL families. Therefore, the reasonable and proper manner of interpreting Section 11(1) is to keep in mind the test stipulated by the proviso. It has to be examined whether information can be treated and regarded as being of confidential nature, if it relates to a third party or has been furnished by a third party. Read in this manner, when information relates to a third party and can be prima facie regarded and treated as confidential, the procedure under Section 11(1) must be followed. Similarly, in case information has been provided by the third party and has been prima facie treated by the said third party as confidential, again the procedure prescribed under Section 11(1) has to be followed.

14. It may also be noted here that in Central Board of Secondary Education (supra), the Supreme Court has drawn a distinction between different categories of information. The first category is information which promotes transparency and accountability in the working of every public authority, disclosure of which may help in containing or discouraging corruption. Such information is enumerated in clauses (b) and (c) of Section 4(1) of the Act. Second category of information is information held by the public authority but not covered or falling under clauses (b) and (c) of the Act. The last category is information which is not held by or under the control of public authority and which cannot be accessed by a public authority. The Supreme Court has held has under:-

"31. ....Information under the third category does not fall within the scope of RTI Act. Section 3 of RTI Act gives every citizen, the right to `information' held by or

under the control of a public authority, which falls either under the first or second category. In regard to the information falling under the first category, there is also a special responsibility upon public authorities to suo moto publish and disseminate such information so that they will be easily and readily accessible to the public without any need to access them by having recourse to section 6 of RTI Act. There is no such obligation to publish and disseminate the other information which falls under the second category.

32. The information falling under the first category, enumerated in sections 4(1)(b) & (c) of RTI Act are extracted below:

"4. Obligations of public authorities.-(1) Every public authority shall--

(a) xxxxxx

(b) publish within one hundred and twenty days from the enactment of this Act,- -(i) the particulars of its organisation, functions and duties;

(ii) the powers and duties of its officers and employees;

iii) the procedure followed in the decision making process, including channels of supervision and accountability;

(iv) the norms set by it for the discharge of its functions;

(v) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;

(vi) a statement of the categories of documents that are held by it or under its control;

(vii) the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;

(viii) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and

as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;

(ix) a directory of its officers and employees;

(x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;

(xi) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;

xii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;

(xiii) particulars of recipients of concessions, permits or authorisations granted by it;

(xiv) details in respect of the information, available to or held by it, reduced in an electronic form;

(xv) the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;

(xvi) the names, designations and other particulars of the Public Information Officers;

(xvii) such other information as may be prescribed; and thereafter update these publications every year;

(c) publish all relevant facts while formulating important policies or announcing the decisions which affect public;

15. Section 11 also ensures that the principles of natural justice are complied with. Information which is confidential relating to a third party or furnished by a third party, is not furnished to the information seeker without notice or without hearing the third partys point of view. A third party may have reasons, grounds and

explanation as to why the information should not be furnished, which may not be in the knowledge of the PIO/appellate authorities or available in the records. The information seeker is not required to give any reason why he has made an application for information. There may be facts, causes or reasons unknown to the PIO or the appellant authority which may justify and require denial of information. Fair and just decision is the essence of natural justice. Issuance of notice and giving an opportunity to the third party serves a salutary purpose and ensures that there is a fair and just decision. In fact issue of notice to a third party may in cases curtail litigation and complications that may arise if information is furnished without hearing the third party concerned. Section 11 prescribes a fairly strict time schedule to ensure that the proceedings are not delayed.

16. Thus, Section 11(1) postulates two circumstances when the procedure has to be followed. Firstly when the information relates to a third party and can be prima facie regarded as confidential as it affects the right of privacy of the third party. The second situation is when information is provided and given by a third party to a public authority and prima facie the third party who has provided information has treated and regarded the said information as confidential. The prodecure given in Section 11(1) applies to both cases.

17. The learned single Judge in the impugned decision has dealt with and interpreted aspect of annual confidential reports and other factual aspects including the fact that inspection of several files has been allowed to the appellant and what the appellant is today seeking is merely the gradings. We would not like to comment on any of these aspects or issues as they were not specifically argued by either side. As noticed above, the matter has been remitted for fresh decision by the CIC. The observation made in the present appeal should not be construed as binding findings on any of the said aspects. We have interpreted Section 11 of the Act and the observations made above are in that context. The appeals are accordingly disposed of. No costs are awarded.

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