

Information Commissioner

Relevant facts emerging from appeal:

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Central Information Commission □□□□□□□□□□□□□□, □□□□□□□□ Baba  
Gangnath Marg, Munirka □□□□□□, New Delhi – 110067

□□□□□□□□□□□□□□ / Second Appeal No. CIC/SCOFI/A/2018/637296

Shri Anupam Saraph

... □□□□□□□□/Appellant ...□□□□□□□□□□ /Respondent

VERSUS/□□□□ Through: Sh. Ajay Aggarwal and Sh. Deepak

PIO, Supreme Court Of India, Tilak Marg, New Delhi-110201

Goel-Advocate

Date of Hearing Date of Decision

- : 04.11.2020
- : 10.11.2020

RTI application filed on

PIO replied on

First Appeal filed on

First Appellate Order on 2<sup>nd</sup> Appeal/complaint received on

- : Shri Y. K. Sinha
- : 14.10.2018
- : 12.11.2018
- : 24.10.2018
- : 30.11.2018
- : 03.12.2018

Information sought and background of the case:

The Appellant filed RTI application dated 14.10.2018 seeking information on 04 points:

The Supreme Court merged and heard petitions relating to Aadhaar under WP 494 of 2012. It has announced some major decisions that affect the life and liberty of the public and following questions relating to the cases arise under 4(1)(c) and 4(1)(d) of the Right to Information Act. I request you to kindly provide by email and publish on your website the following information:

1. A copy of the prayers before the court in each of the petitions heard together
2. The decisions taken by the court on each of the prayers
3. The parties who have been directed to take action(s) based on the

decision of the court.

4. The recourse available to address any prayers that remain

unanswered

(Queries reproduced verbatim)

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The CPIO & Addl. Registrar, SCI, Delhi furnished a point-wise reply to the Appellant vide letter dated 12.11.2018 stating that copies/certified copies of the judicial record/judgments/orders of the Court can be obtained by moving an appropriate application for the same or accessed from the website of the Supreme Court or relevant Law Journals. The appellant was further advised to refer to Chapter XX of Supreme Court of India Handbook on Practice & Procedure & Office Procedure, 2017. The respondent stated that in response to query no. 4, it was beyond the scope of duties of the CPIO to interpret the law, judgments/orders of the Court or give any opinion/comment/explanation or advise regarding the same.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 24.10.2018. The FAA while passing the order dated 30.11.2018 observed that the appellant was not present for hearing but had sent his submissions vide email dated 18.11.2018. The FAA noted that reply of the PIO was explicit and clear and required no further elucidation. Accordingly, the FAA held that there was no substance and/or merit in the appeal and dismissed the same.

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

Facts emerging in Course of Hearing:

In order to ensure social distancing and prevent the spread of the pandemic, COVID-19, hearing is held through audio conference, scheduled after giving prior notice to both the parties. Both parties are heard through audio conference and the Appellant states while he had sought information under Section 4 of the RTI Act, he has been given a response under Section 6, which as per his contentions, is contrary to the information sought by him under RTI Act. The appellant further contended that his query was about the individual prayers of each of the 38 petitioners before the Supreme Court in each of the petitions, heard together while deciding the Aadhar card matter, titled as Justice K.S. Puttaswamy (Retd.) and another vs. Union of India and Others heard together and the decisions taken by the Court on each of the prayers. It is the contention of the Appellant that if such information would have been available on the website, under provisions of 4(1)(c) and 4(1)(d), 4(2) and 4(3) of the RTI Act, 2005, he would not have filed the instant RTI Application. Respondent present during hearing pointed out that Section 4 of the RTI Act has no applicability on judicial pronouncements. Apart from placing reliance on their earlier replies in this case, the

Respondent mentions decision of this Commission in case no. CIC/SCOFI/A/2019/638912 dated 29.10.2020, wherein it was held that: “

Keeping in view the facts of the case and the submissions

made by the both the parties and in the light of the judgements of the Hon'ble High Court of Delhi in the matter of The Registrar, Supreme Court of India vs. R. S. Misra dated 21.11.2017 in WP (C) 3530/2011 and the judgement of the Hon'ble Supreme Court of India, , in Chief Information Commissioner Vs. High Court of Gujarat and Another in CIVIL APPEAL NO(S).1966-1967 OF 2020(Arising out of SLP(C) No.5840 of 2015) dated

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04<sup>th</sup>March, 2020 as also the earlier decision pronounced by the Commission in CIC/SCOFI/A/2018/631839 -BJ dated 24.07.2020. Moreover, the judgement of the Hon'ble Supreme Court in Chief Information Commissioner Vs. High Court of Gujarat and Another clearly states that certified copies of documents on the judicial side is to be obtained through the mechanism provided under the Supreme Court Rules and the

provisions of the RTI Act shall not be resorted to.

#### Decision

After perusal of the facts of the case, it is noted that it is the contention of the Appellant that information sought by him viz. prayers before the court in each of the 38 petitions heard together, the decisions taken by the court on each of the prayers etc. should have been ordinarily available on the website of the Supreme Court of India under section 4(1)(c) and 4(1)(d), 4(2) and 4(3) of the RTI Act, 2005 and also that he had not sought information under Section 6, but under Section 4 of the RTI Act,2005.

In order to address the Appellant's contention, it is necessary to have a re-look at the relevant provisions cited by the Appellant:

Section 4 (1) mandates that every public authority shall:

- (a) xxxxxxxxxxxxxxxxxxxx
- (b) xxxxxxxxxxxxxxxxxxxx
- (c) Publish all relevant facts while formulating important policies or announcing the decisions which affect public.
- (d) Provide reasons for its administrative or quasi-judicial decisions to affected persons.

Section 6 of the Act on the other hand, is as follows:

6. (1) A person, who desires to obtain any information under this Act, shall make a request in writing or through electronic means in English or Hindi or in the official language of the area in which the application is being made, accompanying such fee as may be prescribed, to—

- (a) the Central Public Information Officer or State Public Information Officer, as the case may be, of the concerned public authority;
- (b) the Central Assistant Public Information Officer or State Assistant Public

Information Officer, as the case may be, specifying the particulars of the information sought by him or her:

The above provisions have been highlighted, verbatim, so that it can be understood clearly that Section 4 lays down mandates for the public authority to adhere to for suo motu disclosure of information, while only Section 6 of the RTI Act enables citizens to enquire about the information. The scope of the various sections of law is clearly laid down and cannot be used interchangeably. Thus the Appellant's contention that he had sought information under Section 4 of the RTI Act is legally flawed and not maintainable under the RTI Act, because information can be sought only under provisions of the Section 6 of the Act,

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even if to enforce or challenge action or inaction of the public authority, as envisaged under Section 4 of the RTI Act.

Now coming to the next limb of arguments of the Appellant that the information about prayers of all the 38 petitioners and individual decisions against each of the prayer should have been available on the website of the public authority. In this regard the Commission notes that a Supreme Court decision in the case of Khanapuram Gandaiah vs. Administrative Officer & Ors.[Special Leave Petition (Civil) No.34868 of 2009] by order dated 04<sup>th</sup> January 2010 discusses these aspects, in the following words:

5. ....The nature of the questions posed in the application was to the effect why and for what reason Respondent No. 4 omitted to examine certain documents and why he came to such a conclusion. Altogether, the petitioner had sought answers for about ten questions raised in his application and most of the questions were to the effect as to why Respondent No. 4 had ignored certain documents and why he had not taken note of certain arguments advanced by the petitioner's counsel.
6. Under the RTI Act "information" is defined under Section 2(f) which provides: "information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, report, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force." This definition shows that an applicant under Section 6 of the RTI Act can get any information which is already in existence and accessible to the public authority under law. Of course, under the RTI Act an applicant is entitled to get copy of the opinions, advices, circulars, orders, etc., but he cannot ask for any information as to why such opinions, advices, circulars, orders, etc. have been passed, especially in matters pertaining to judicial decisions. A judge speaks through his judgments or orders passed by him. If any party feels aggrieved by the order/judgment passed by a judge, the remedy available to such a party is either to challenge the same by way of appeal or by revision or any other legally permissible mode. No litigant can be allowed to seek information as to why and for what reasons the judge had come to a particular decision or conclusion. A judge is not bound to explain later on for what reasons he had come to such a conclusion.

7. Moreover, in the instant case, the petitioner submitted his application under Section 6 of the RTI Act before the Administrative Officer-cum- Assistant State Public Information Officer seeking information in respect of the questions raised in his application. However, the Public Information Officer is not supposed to have any material which is not before him; or any information he could have obtained under law. Under Section 6 of the RTI Act, an applicant is entitled to get only such information which can be accessed by the "public authority" under any other law for the time being in force. The answers sought by the petitioner in the application could not have been with the public authority nor could he have had access to this information and Respondent No. 4 was not obliged to give any reasons as to why he had taken such a decision in the matter which was before him. A judge cannot be expected to give reasons other than those that have been enumerated in the judgment or

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order. The application filed by the petitioner before the public authority is per se illegal and unwarranted. A judicial officer is entitled to get protection and the object of the same is not to protect malicious or corrupt judges, but to protect the public from the dangers to which the administration of justice would be exposed if the concerned judicial officers were subject to inquiry as to malice, or to litigation with those whom their decisions might offend. If anything is done contrary to this, it would certainly affect the independence of the judiciary. A judge should be free to make independent decisions.”

Similarly, in the instant case, the 1448 page decision is available in public domain which discusses all relevant aspects with respect to the matter. The individual prayers in the 38 petitions and decisions thereupon are available in the relevant Court files, which can be accessed on inspection of relevant records, in terms of the Supreme Court Rules. In fact, the reply of the PIO referred to the relevant provisions of Supreme Court Rules, 2013, Order V, Rule 2(37) which discusses the powers of the Court, while dealing with Application from a person who is not a party to the case, appeal or matter, for inspection or search or grant of copies can be allowed only on good cause shown. Likewise the Order XIII referred by the respondent deals with various nuances of providing copies of documents from the Supreme Court. Thus, information as available on record, and defined under Section 2(f) of the RTI Act has been made accessible to the Appellant, in response to the queries of the Appellant. Moreover, the Supreme Court website itself provides all relevant information pertaining to the status, proceedings, parties and all other relevant details of any case. In so far as the query no. 2 of the Appellant is concerned, the judgment comprises of collective decision for the entire batch of 38 petitions, individual petitions or prayers therein have not been discussed. Hence, the information about individual decision on each prayer is not available on record, nor can it be provided. Response to query no. 4 entails giving legal opinion, which certainly does not fall within the scope of work of the PIO. Thus, perusal of records establish the fact that the Respondent has disclosed all relevant information, available on record, in terms of Section 2(f) of the RTI Act, 2005. The Commission finds no malafide or infirmity is found in the responses of the public authority.

The appeal merits no further adjudication and is disposed off as such.

Authenticated true copy

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**Ram Parkash Grover** (□□□□□□□□□□)  
**Dy. Registrar** (□□-□□□□□□)/ 011-26180514

**Y. K. Sinha** (□□□. □□ . □□□□) **Information Commissioner** (□□□□□□□□)

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