





GIRISH RAMCHANDRA DESHPANDE VS. CENTRAL INFORMATION COMMISSIONER & ORS.

(2013) 1 SCC 212, (2012) 8 SCR 1097

2012

Case Status

**NOT
OVERRULED**

Case Type

**SPECIAL LEAVE
PETITION
(CIVIL)**

Additional
Aspect(s)
of Privacy

**RIGHT TO KNOW
AND ACCESS
INFORMATION**

Constitutional
Provision(s)

**ARTICLE
21**

Bench
Strength

2

JUDGES

1 opinion by

Justice K.S. P. Radhakrishnan and
Justice D. Misra.

Number of
Opinion(s)

1/0

OPINIONS DISSENT

“The performance of an employee/officer in an organization is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression “personal information”, the disclosure of which has no relationship to any public activity or public interest. On the other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual. Of course, in a given case, if the Central Public Information Officer or the State Public Information Officer of the Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information, appropriate orders could be passed but the Petitioner cannot claim those details as a matter of right.”

This case was a Special Leave Petition (SLP) filed before the Supreme Court regarding the right to privacy with respect to information about public servants, in the context of Section 8(1)(j) of the Right To Information Act, 2005 (RTI Act). Section 8(1)(j) exempts disclosure of certain information that might impinge on the right to privacy of the person about whom information is sought. The case arose when the Petitioner sought several types of information relating to an officer of the State of Madhya Pradesh through an RTI appli-

cation. The concerned office refused to furnish several particulars under the exception included in Section 8(1)(j). This refusal was broadly upheld by the Chief Information Commissioner (CIC), and by a Single Judge and a Division Bench of the High Court. The Supreme Court through this SLP, interpreted Section 8(1)(j), as well as clauses 8(1)(e) and 8(1)(g), and upheld the order of the CIC as acceding to the Petitioner’s request would violate the privacy of the public servant. The Court was of the opinion that the information requested was mostly of a

nature that would find a place in the income tax returns of the officer, and in absence of *bona fide* public interest, such a disclosure would be exempted as it would cause an unwarranted invasion of privacy within the meaning of Section 8(1)(j) of the RTI Act.

Facts

The Petitioner had filed an RTI application with the Regional Provident Fund Commissioner (RPFC), which was part of the Ministry of Labour, Government of India seeking various pieces of information about an officer working at the RPFC office. These details were related, *inter alia* to his appointment order, salary details, documents relating to disciplinary inquiries initiated against him (such as the memo, show cause notice, and censure), a charge sheet against him, details regarding his investments, item wise and value wise details of the gifts received by him, his movable and immovable properties, and income tax returns of his assets and liabilities. The request for these details were denied by the RPFC Office, as well as by the Central Information Commissioner, on the basis of Section 8(1)(j) of the RTI Act. Section 8(1)(j) exempted “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” from being disclosed by State offices. The Petitioner, aggrieved by this order of the CIC, filed a writ petition before the High

Court, where the Single Judge dismissed the petition and upheld the decision of the CIC. Following which, the Petitioner filed an appeal before the Division Bench and the same was dismissed. Thereafter, the Petitioner approached the Supreme Court through the present Special Leave Petition.

Issue

- A) Whether the CIC was right in denying information pertaining to the Respondent’s service career, assets, liabilities and movable and immovable assets on the grounds that the information sought was personal information exempted from disclosure under Section 8(1)(j).

Arguments

The CIC’s as well as the RPFC’s orders put forth the argument that the information sought by the Petitioner fell under two heads: (i) relating to the personal matters pertaining to his service career; and (ii) his assets & liabilities, movable and immovable properties and other financial aspects. Therefore such information, in the opinion of the CIC and RPFC would clearly fall under the exception of “personal information” under Section 8(1)(j) and would not be liable to disclosure, as there was no relation of such information to public interest and such disclosure would cause unwarranted breach of privacy of the individual.

The Petitioner argued that documents pertaining to employment of a person holding the post of enforcement officer should be treated as documents having a relationship to public activity and interest. Therefore, the intrusion of privacy of the public officer would be warranted. He also argued that disclosure of some pieces of information sought, for instance, details relating to appointment and promotion, documents pertaining to disciplinary actions initiated against the officer and details of gifts and liabilities received by the officer would not cause any intrusion of privacy to the officer in the first place.

Decision

The Court held that the nature of information that was sought would mostly find a place in the income tax returns of the third Respondent. The Court agreed with the CIC that the details called for by the Petitioner i.e. copies of all memos issued to the third Respondent, show cause notices and orders of censure/punishment, etc. were qualified to be personal information as defined in Section 8(1)(j) of the RTI Act. The Bench was of the opinion that the performance of an employee in an organization was primarily a matter between the employee and the employer and normally those aspects would fall under the expression 'personal information', the disclosure of which had no relationship to any public activity or public interest. On the other hand, it held that such disclosure would cause unwarranted intrusion upon the right to privacy of that individual.

However, it added the qualification that in a given case, if the authorities were satisfied that the larger public interest justified the disclosure of such information, then the potential breach of privacy of the public servant could be weighed against the larger public interest and the decision to disclose information thereof would justify the breach of privacy. In the instant case the Petitioner was unable to demonstrate a *bona fide* public interest in seeking information, and thus the Court dismissed the petition.
