

GIST OF CENTRAL INFORMATION COMMISSION CASE LAWS

The CIC while deciding the following cases has held that :

The CIC, while deciding the said case (Mohd.ShakeelSaifi v. PIO, BhaiParmanand Institute of Business Studies, Delhi, CIC/SA/A/2015/002028) has cited the decision of Supreme Court of India in the matter of ICAI v. Shaunak H. Satya, (2011) 8 SCC 781 in which it was held as under:

“This Court is also of the view that misuse of the RTI Act has to be appropriately dealt with otherwise the public would lose faith and confidence in this "sunshine Act". A beneficent Statute, when made a tool for mischief and abuse must be checked in accordance with law”.

The CIC further held that:

“such a misuse by employee will amount to misconduct and, acting under Section 19(8)(a) of RTI Act, require the public authority to take following steps to address the misuse of RTI by its own employees like appellant:

a) The public authority should proceed with disciplinary action against the appellant for his misuse of RTI which amounted to misconduct, before April 25, 2016. Every misuse of system like, misuse of PGMS, RTI and Social media shall be considered as an item of misconduct that invite disciplinary action.

b) If the misusers of RTI involved in invading privacy by video recording and spreading false allegations through social media network, the head of the institute need to examine if it amounts to any offence under IPC or IT Act, and shall report to appropriate authorities including police.

c) The public authority should inform the individual officers, if their rights are breached by misuse, they have a every right to complain as per law and public authority shall facilitate such action, if the misuse obstructs the normal course of functioning of the institute.

d) The concerned authorities to take immediate action if the information given to appellant in this case is abused or spread in social media or elsewhere, and they shall not give any information to this appellant if files similar RTI requests. The public authority should take note that employees or colleagues like Ms. Tarika, Ms. AmitaDev have a right to seek compensation from public authorities if they ignore or neglect their privacy rights by indiscriminately giving information in the absence of public interest. It is pathetic to note that the PIO could not ascertain that there was no public interest in this case but appellant has malicious interests in harassing others or building pressure on authorities in self-interest. The authorities have a duty to protect other employees from such misusers. This kind of misuse to build up pressure against taking action on misconduct or to secure promotion should be treated as disqualification.

e) *The public authority should provide necessary training to the PIOs and other staff members to verify the nature of appellant and if they found him to be misuser, tell them not to give information like medical claims of third parties.*”

The CIC while deciding the said case (H.K.Bansal v. DoT, New Delhi, CIC/BS/A/2014/002319SA) has held as under:

“Appellants like this appellant should know that the *RTI Act is a means to advance public interest; not to be used as a tool to harass the public authority by a workless or disgruntled employee serving/retired.* His multiple RTI applications have a serious impact on the functioning of public authority BSNL/DOT, its RTI authorities and the Central Information Commission in Second Appeal. Officers also presented a bundle of files of the appellant. *It reflects criminal wastage of time and, if unchecked, will chock the functioning of the public authority. If this is allowed, the public authority cannot focus on their regular duties and their whole time will be devoted to such frivolous/vexatious/useless/repeated/multiple/obnoxious RTI questions. This is misuse and it has to be prevented.*”

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“Whether serving/retired employees are having any right to behave in such a manner to torture his colleagues and employer? The Commission opines that such a conduct deserves to be considered as misconduct. There should be a system within the Public Authority to tackle such misconduct of any serving employee/retired employee or by any other staff member/outsourced or similar nature, because they are becoming potential hazards of RTI misuse. Public authority should have evolved a mechanism and service rules or include in conduct rules, to initiate departmental action against existing/retired employees for such misbehavior or misconduct and impose penalty in the nature of cutting increments or pension emoluments for serving or retiring employees accordingly. If the RTI application from its own employee reflects a grievance or complaint, the public authority should address grievance immediately and inform him within one month. *If the RTI application is repeated, frivolous or useless one and only meant for harassing other employees or public authority as a whole, then the disciplinary action should be initiated for such alleged misconduct, leading to appropriate action.* If they do not act at all against such characters (retired or not retired employees) in indulging in such misconduct of filing frivolous and entertain these repeated RTI applications it will cause huge wasting of public money. *The public authority is answerable to public why they are facilitating the misconduct causing damage to public exchequer. Each department has to address the issue of misusing RTI by employee, after thoroughly examining each individual case separately.*”

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“Targeting the witnesses, complainants, superior officers who were members of inquiry committee or DPC who did not favour them and seeking whole lot of information about them under RTI Act is irresponsible misuse of the right. It will not only interfere with the independent interdepartmental

decision making process, but also instill fear in inquiry officers and dissuade others from lodging complaints against wrongdoers. This increases the already existing space for wrongdoing ultimately affecting the governance. ***The RTI is not meant for granting such immunity or impunity to wrongdoing employees to misuse RTI to demoralize the complainants and inquiry officers.*** Some of the MrBansal's RTI applications are aimed at the officers who might have not favoured him in DPC. ***This is a dangerous trend.*** The repeated RTI applications and appeals by H K Bansal present bad example of misuse by retired employees targeting their past colleagues. ***In larger public interest of protecting the morale of officers, to facilitate independent decision making, to regulate and act against wrongdoers or nonperformers or cantankerous litigants or those who bide away time in public office doing nothing or corrupting the processes, this kind of misuse of RTI against the public authority shall be curbed.*** Denial of information to the applicants like this appellant is justified broadly under the exceptions prescribed in Section 8 (1) (g), (h), (j) and Section 8(2): See text of these sections:

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

*(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;*

20. Appellant is demanding the information about some employees/officers who gave assistance in confidence for law enforcement, which can be denied under this provision.

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

21. Appellant's targeted demand for details of officers who decided or opined or complained or deposed against him will impede the process of collecting evidence of misconduct of accused public servant, impede process of inquiry for taking disciplinary action, hence need not be given under this clause.

(j) information which relates to personal information the disclosure of which has not 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,

22. Appellant's approach for the information pertaining to individual service of the colleagues, seniors and subordinates is motivated by his selfish personal interest of avenging based on his prejudice, and nowhere it reflects any public interest, thus it has to be denied.

Section 8(2) Notwithstanding anything in the Official Secrets Act, 1923 (19 of 1923) nor any of the exemptions permissible in accordance with subsection (1), a public authority may allow access to information, if public interest outweighs the harm to the protected interests."

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25. *The Commission further directs all the CPIOs of the respondent authority to prepare a comprehensive note on the number of RTI applications filed by the appellant, with his background, the responses given by them in the first appeal and second appeals, etc., and put it on the official website under the heading "Do not misuse RTI". The official website also should publish this order. If applicant files another repeated RTI application, public authority can give a single line reply to refer to these two files on the website and reject the application.*

27. *The Commission noticed that some former employees in every public authority, who were either suspended or removed or facing charges, convicted in a crime or facing disciplinary action, or trying to run a counter inquiry with several harassing questions. The Commission also noted an atmosphere of fear and worry was spread in the offices and among the officers who are hesitating to take action against erring staff members for fear of facing flood of questions under RTI. Sometimes, the RTI applications are running into hundreds similar to those posed by lawyers during cross examination. **The respondents submitted that they were ready to comply with the RTI Act but answering 'enquiry' type questions and repeated RTI applications would involve diversion of resources, energy besides having demoralizing effect.** The Commission appreciates the genuineness of the problem and sincere feelings of the respondent officers and finds a need to address this serious issue. **It is the responsibility of Government of India and Information Commissions to see that the RTI Act will not become rendezvous for disgruntled elements.***

The CIC while deciding the said case (**H.K.Bansal v. DoT, New Delhi, CIC/BS/A/2014/002319SA**) has cited the decision of the Commission in the matter of Mukesh Sharma v. Delhi Transport Corporation (CIC/SA/A/2014/000615) in which it was observed as under:

"Every employee has rights to secure his employment but also has duties to perform the job without resorting to misconduct or any other irregularity. The employee also has right to get the copy of complaint, notice, charge sheet and every piece of paper which is relied on against him. He should get the opportunity also to defend himself. At the end he should also get the copy of enquiry report/order/judgment or sentence pronounced along with right of appeal. He has all rights as per principles of natural justice and if there is any lapse, or suppression of information or document or non-supply of papers relied on by the disciplinary authority, he can seek them from the inquiry officer or authority, if not, he can get them under RTI Act, Though an employee facing disciplinary charges as explained above the accused employee does not have any moral or legal right to file plethora of RTI applications seeking information not related to allegation against him, but to harass the officers who he suspects to have complained or gave evidence or provided information or taken action against him, if done so it becomes misuse and that cannot be encouraged. The public interest is an overriding factor in these cases also as per the provisions of Right to Information Act, 2005. If such multiple RTI actions are allowed the officers at higher level will lose moral authority to initiate action against erring employees and whole system of disciplined administration would crumble. In contra, there is a huge public interest in taking action against the wrongdoing employees.

Here in this case, the appellant is not even trying to protect his personal right, or right to employment or right to fair trial. But he is unleashing his private vengeance against colleagues or seniors who are either inquiring or informing or complaining or giving evidence against him. Such information would squarely fall under exempted category as per Section

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This is perhaps the worst case to have come to this bench showing the worst misuse of the RTI-Act. The Commission directs the Respondents not to consider the RTI-applications filed by this Appellant and his wife since the ***RTI cannot be turned into a tool for vendetta of an employee against his Organisation for some grievance that one harbors against it.*** The present case is an example to the ridiculous length to which a person can take a beneficial piece of legislation and make a mockery of it.”

#The CIC while deciding the said case (P.K.Pandeyv. Maulana Azad Medical CollegeCIC/DS/A/2013/001740-SA, _____ CIC/DS/A/2013/001741-SA, CIC/DS/A/2013/002561-SA) has held as under:

“At the first instance it appears as ifappellant was exposing an irregularity, but after asking somequestions to him and respondents, it is discovered there was nothing like that and his questions sans public interest. Withirresponsible repetitions it assumed serious form of abuse that canbe classified as frivolous, vexatious and annoying. It also causesmental injury to the officers who were in those posts creating abaseless apprehension that they might lost their posts because ofthis persons perceived technical problem, which in fact wasnobody’s case.”

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“that the ***repeated questions under RTI unrelated to transparency, devoid of public interest, full ofreasonless personal animosity against colleagues, besides filing petitions before various fora, will amount to indiscriminate abuse of RTI which become a tool to obstruct the work in the office and to destroy the peace, tranquility and harmony*** among the doctorsworking in the respondent authority institution and RTI in his handsgot converted into a tool of oppression and intimidation of honestdoctors who are striving to perform their duties.”

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“Besides, the ***Commission recommends the public authority to initiate disciplinary action against him for this kind of indiscipline examining whether this amounts to misconduct because his continuous misuse of RTI is resulting in obstruction of activities of the public authority, causing criminal waste of time of PIO, his colleagues and the CIC, and inform the progress to the Commission.***”

#The CIC while deciding the said case (S.P. Goyalv. CBDT, CIC/AT/A/2007/00017) has held as under:

“The second point which the respondents have raised is exemption of Section 8(1)(g), which protects from disclosure information 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. ***There is very little doubt that the information which the appellant has solicited pertains to law enforcement action by the public authority, i.e. the search and seizure operations. During all such operations, it is normal for such public authorities to receive confidential and guarded information from their informants or other sources. There***

is every reason to believe that disclosure of the documents and files containing such information may lead to inflicting avoidable injury on such informants as well as compromising their ability to effectively assist the public authority in its law enforcement function by bringing to its notice cases where law may have been violated. Routine disclosure of such information and permission to inspect records where information of this nature may be contained would compromise the very edifice of trust and confidentiality built over years between those providing information and those in the public authority receiving it. This relationship is critical to sub-serving a much larger public purpose, i.e. voluntary compliance with legal provisions by citizens and effective action by the public authority against those found to be violating laws. The Commission has specially noted that nothing can be a more dangerous assault on that relationship, than allowing those being proceeded against for law-breaking to access the very documents and files which contain the material which forms the basis for initiating action against violation of law. This Commission will undoubtedly protect the right of every citizen regardless of his status or purpose to access information admissible under the RTI Act, but this general rule will perforce have to be modified, when a person at the receiving end of the law-enforcement seeks to subvert the process by invoking the freedom granted under the RTI Act to contrive to access vital information critical to that process. In such cases, the provisions of the law have to be strictly interpreted to make sure that larger public interest is not allowed to suffer.”

#The CIC while deciding the said case (RajanMadhav. SBI, CIC/MP/A/2015/001240, 001242, 001243) has held as under:

*“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 CIC while deciding the said case (Dr. K.C. Vijayakumaran Nair v. Department of Posts, CIC/PB/A/2007/00373) has held as under:

“The information seeker, being an employee of the respondent, is a part of the information provider. Under the RTI, the employees are not expected to question the decisions of the superior officers in the garb of seeking information. Such employees have access to internal mechanisms for redressal of their grievances. Unfortunately, a large number of the government employees are seeking information for promotion of their personal interest. This is done on the pretext of serving the public cause, without realizing the extent of distortions that it causes in use of public resources due to putting up frivolous applications by them for self-interest.”

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