

# CENTRAL INFORMATION COMMISSION

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**CIC/SA/A/2016/000017**

## **Gurbaksh Singh v. PIO, Punjab University**

**Important Dates and time taken:**

<b>RTI:</b> 03.08.2015	<b>FAO:</b> Nil	<b>SA:</b> 22.12.2015
	<b>Hearing:</b> 26.12.2016	<b>Decided on:</b> 27.12.2016

### **Parties Present:**

1. Appellant: Absent.

Public authority: Mr. Raj Kumar, Ms. Navjeet Kaur present.

### **FACTS:**

2. The appellant sought photocopy of almost entire Ph.D thesis submitted by Dr. Ratan Singh Jaggi in 1963 to the Panjab University. He also wanted certified copies of the certificates signed by the Supervisor of research during that time. In response to an earlier RTI application he was given access to PhD Thesis for around three months, which he used to read, extract notes etc. Then he filed this RTI request claiming that he needed the copy to check the possible plagiarism. The appellant filed this second appeal.

### **Decision :**

3. The CPIO and other officers from the University Library explained that the appellant was asking for photocopies of almost all pages of the thesis submitted by Dr. Ratan Singh Jaggi, which was denied under section 9 of RTI act, as thesis is a copyrighted work of the research scholar. The CPIO also said that thesis was published as a book by private publisher - Bharatiya Sahitya Mandir, Fawara Delhi in 1965. He was informed about this publication. The appellant wrote that

he has the copy of the book with him yet he needed the Photostat copy of the original thesis to check possible copyright violation by the research scholar.

### **Issues emerging out of hearing:**

4. After the perusal of file including the lengthy appeal, the Commission notices that appellant is seriously perusing this case for more than 6 years and trying to establish his apprehension of plagiarism by the research scholar in 1963. It appears that he is interested in bringing out the differences between the thesis and the book.

5. As per section 9 of RTI act the information can be denied if the disclosure infringes the copyright of the third party, but within the text of this section there is an inherent exception. This section will apply only when there is a copyright in a 'person other than the state'. In this case Panjab University holds an interest similar to copy right in the thesis submitted by the research scholar. Can University having right to share thesis, deny it under Section 9? It cannot. The section 9 of the Act states that;

Grounds for rejection to access in certain cases.—Without prejudice to the provisions of section 8, a Central Public Information Officer or State Public Information Officer, as the case may be may reject a request for information where such a request for providing access would involve an infringement of copyright subsisting in a person other than the State.

6. Unlike a book written by the author, the thesis is the product of combination of research by the author and supervision by the University besides certification by experts in the field. This research also was carried out only after the admission after due scrutiny, proper guidance or supervision, infrastructural support, examination, and evaluation by the University. Finally the degree is awarded after a viva-voice examination. Generally the University gets an undertaking from the research scholar facilitating sharing of the thesis with the library or on the website giving access to take notes or further research upon. The university spends huge amount of its time and money in processing and evolving a research project which cannot be exclusively claimed by the author.

The UGC and the MHRD have developed a new website called **Shodhganga** to facilitate the access to all research products in order to encourage further research.

7. Before denying the information under section 9 we need to examine whether copyright of the author or of the university suffers by disclosure. The appellant wanted a photocopy of almost the entire thesis (author specified the page numbers required in the thesis which amounts to around 90% of the thesis). Even if that is given to the appellant there will be no impact on right of the author or the publisher to sell the book which came into the market in 1965. If the appellant uses the thesis for producing multiple copies and starts selling them, the research scholar has every right under Copyright Act to prevent and seek compensation from the appellant. He can also publish it on his own. Appellant published a book based on the thesis. As the appellant already purchased one of such printed books, and wanted to compare with the original thesis copy, it cannot be said that the copyright would suffer any loss.

8. The purpose of seeking the copy of thesis apparently is to check plagiarism based on in depth study by the appellant. Thus it is an academic purpose with an element of public interest. This will squarely fall under the fair use exceptions prescribed under copyright act for academic purpose. As per section 52 of the copyright act, 1957, the fair use exception has been explicitly mentioned as:

52. Certain acts not to be infringement of copyright.—

(1) The following acts shall not constitute an infringement of copyright, namely:—

(A) a fair dealing with a literary, dramatic, musical or artistic work <sup>1</sup>[not being a computer programme] for the purposes of—

<sup>1</sup> (i) Private use including research;

(ii) criticism or review, whether of that work or of any other work;

<sup>2</sup>[(aa) the making of copies or adaptation of a computer programme by the lawful possessor of a copy of such computer programme from such copy—

<sup>1</sup>[(aa) the making of copies or adaptation of a computer programme by the lawful possessor of a copy of such computer programme from such copy—"

(i) in order to utilise the computer programme for the purpose for which it was supplied; or

(ii) to make back-up copies purely as a temporary protection against loss, destruction or damage in order only to utilise the computer programme for the purpose for which it was supplied;]

(P) the reproduction, for the purpose of research or private study, or with a view to publication, of an unpublished literary, dramatic or musical works kept in a library, museum or other institution to which the public has access: Provided that where the identity of the author of any such work or, in the case of a work of joint authorship, of any of the authors is known to the library, museum or other institution, as the case may be, the provisions of this clause shall apply only if such reproduction is made at a time more than 9[sixty years] from the date of the death of the author or, in the case of a work of joint authorship, from the death of the author whose identity is known or, if the identity of more authors than one is known from the death of such of those authors who died last;

9. The sharing of thesis by giving a photocopy cannot be equated with commercial reproduction. The PIO of Panjab University stated that they are launching all the PhD theses on their official website after digitizing them approximately in 3 months. Once the digital copy of thesis is available on the website all the apprehensions of the public authority cannot stand at all.

10. The very purpose of research is to question and find answers. The words research itself means re-search thus meaning further research. And if any individual wants to analyze or study and conduct further research on the thesis, such opportunity cannot be denied, especially when primary goal of a University is facilitation of access, making knowledge available, affordable and achievable.

11. If appellant's aim is to challenge against alleged plagiarism, the University being a repository of knowledge itself must further make it easier for the appellant to access information so that he can challenge the wrong, if any.

12. The apex decision making body of the University - Syndicate has considered this issue and laid down the policy. It says:

"Dr. Harpreet Singh Dua stated that it was not so simple issue as it looked. In fact, the thesis had already been submitted and two books: one in Hindi had been published by the Chand Publications in 1965; and another in Punjabi by New Book Company. When the books were available, why the thesis was being demanded?"

Moreover, it was a religious matter as it related to Guru Gobind Singh Ji's Vani. The radical people wanted to provoke the public by playing with their sentiments."

The apprehension that the disclosure of thesis would provoke riots appears to be misconceived; this thesis is already available in both Hindi and Panjabi since 1965 and the university has assured to put it on the website in digital form within 3 months.

13. Thus the decision of the syndicate appears to have no logical and factual support. Legally speaking, the syndicate cannot evolve a policy in contradiction with the Right to Information act, 2005. The University has to revisit its policy and their decision should not conflict with the disclosure norms endorsed by RTI Act. Hence commission recommends the hon'ble members of the syndicate to re-examine the case to facilitate disclosure in such cases.

14. Hence the commission directs to issue the certified copies of the pages required by the appellant after collecting the cost of photocopy before 27<sup>th</sup> January, 2017.

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(M. Sridhar Acharyulu)  
Central Information Commissioner

Authenticated true copy

(Dinesh Kumar)  
Deputy Registrar

Copy of decision given to the parties free of cost.

Addresses of the parties:

1. The CPIO under RTI,  
AC Joshi Library,  
Punjab University, Chandigarh.

2. Shri Gurbaksh Singh,  
Kothi No. 33, Ph-III B I, SAS  
Nagar, Mohali, Punjab.