

Central Information Commission, New Delhi
File No. CIC/SH/A/2016/900040
Right to Information Act-2005-Under Section (19)

Date of hearing : 12th January 2017

Date of decision : 12th January 2017

Name of the Appellant : **SHRI SHRIPATI PATHAK**
S/O PARSHURAM JEE PATHAK
CIVIL LINE BADI BAZAR, DISTT- BUXAR
BIHAR - 802101

Name of the Public Authority/Respondent : **CENTRAL PUBLIC INFORMATION OFFICER,**
MADHYA BIHAR GRAMIN BANK
HEAD OFFICE, SHRI VISHNU COMMERCIAL
COMPLEX, NH – 30, NEW BYPASS, NEAR
B.P. HIGHWAY SERVICES PETROL PUMP,
ASOCHAK, PATNA, BIHAR - 800016

RTI Application filed on : 23/10/2015

CPIO replied on : —

First Appeal filed on : Dated Nil

First Appellate Authority order on : —

2nd Appeal received on : 11/12/2015

The Appellant was present at the NIC Studio, Buxar.

On behalf of the Respondents, Shri Mayank Kumar Sinha, APIO was present at the NIC Studio, Patna.

Information Commissioner : **Shri Sharat Sabharwal**

Information sought

This matter concerns an RTI application filed by the Appellant, seeking information on four points regarding copies of attendance register for the period mentioned in the application of the Piparpati Branch of the bank and Head Office, Patna and leave record, postings and salary details of his wife, Ms. Priyanka Kumari, an officer of the bank.

The CPIO reply

No reply given.

Grounds of the First Appeal

No information provided.

Order of the First Appellate Authority

No order passed.

Grounds of the Second Appeal

Information sought not provided.

Relevant facts emerging during the Hearing, Discussion and Decision

The Appellant stated that his wife had filed a case against him under Section 498 A of the Indian Penal Code. Therefore, he had sought the information under the life or liberty proviso to Section 7 (1) of the RTI Act. The CPIO, however, did not provide him the information within 48 hours. This impacted his ability to defend himself. In this context, he drew our attention to a Supreme Court order dated 2.9.2016 in Shripati Pathak vs. State of Bihar & Anr. in which the Court had stated that no ground for interference was made out for exercise of their jurisdiction under Article 136 of the Constitution of India. He alleged that the absence of the information sought by him impaired his ability to present his case before the Supreme Court. On being asked whether he was arrested at any stage, he replied in the negative, but stated that he needed to get anticipatory bail. In his written submissions dated 4.1.2017 to the Commission, he has also referred to an application dated 3.11.2016 moved by his wife before a judge in Buxar, claiming that it makes it

clear that she had no objection to the provision of the information sought by him.

2. The Respondents stated that the wife of the Appellant has asked them not to provide the information to the Appellant unless a court of law orders them to do so. The Appellant stated that this was not conveyed to him at any stage. The information was denied by the CPIO under Section 8 (1) (d), (e) and (j) of the RTI Act, without offering any justification for invocation of these sections.

3. We have considered the submissions of both the parties. In so far as the life or liberty aspect raised by the Appellant is concerned, we note that its decision No. CIC/SG/A/2012/000814/18825 dated 9.5.2012, the Commission observed as follows:-

“Proviso of Section 7(1) states that where the information sought concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipt of the request. This provision has to be applied only in exceptional cases and the norm is that information should be provided within thirty days from the receiving date. Whether the information sought concerns the life or liberty of a person has to be carefully scrutinized and only in a very limited number of cases this ground can be relied upon. The government machinery is not designed in a way that responses to all RTI Applications can be given within forty-eight hours. A broad interpretation of ‘life or liberty’ would result in a substantial diversion of manpower and resources towards replying to RTI Applications which would be unjustified. Parliament has made a very special exception for cases involving ‘life or liberty’ so that it would be used only when an imminent threat to life or liberty is involved.

The life or liberty provision can be applied only in cases where there is an imminent danger to the life or liberty of a person and the non-supply of the information may either lead to death or grievous injury to the concerned person. Liberty of a person is threatened if she or he is going to be incarcerated or has

already been incarcerated and the disclosure of the information may change that situation. If the disclosure of the information would obviate the danger then it may be considered under the proviso of Section 7(1). The imminent danger has to be demonstrably proven. The Commission is well aware of the fact that when a citizen exercises his or her fundamental right to information, the information disclosed may assist him or her to lead a better life. But in all such cases, the proviso of Section 7(1) cannot be invoked unless imminent danger to life or liberty can be proven.”

From the facts placed before us and the fact that the Appellant was not arrested at any stage, there is nothing to establish that there was an imminent danger to his life or liberty. In fact in the Supreme Court order dated 2.9.2016, sent by him, the court observed that the wife had submitted that she would not prosecute the case under Section 498 A proceedings which is registered by Jurisdictional Police against the Appellant. Her statement was taken on record. Therefore, we are not in a position to conclude that it was a case deserving application of the life or liberty proviso to Section 7 (1) of the RTI Act.

4. We now come to the information sought by the Appellant in his RTI application. The information sought at points No. (i) and (ii) is regarding a copy of the attendance register of a branch of the bank for the months of July to September 2014 and of Head Office for the months of October 2014 and March - April 2015. These registers would pertain to the attendance of all the employees of the branch / Head Office. The attendance record of the employees of a public authority cannot be regarded as their personal information which has no relationship to any public activity or interest. While the above register(s) may also contain the record of the attendance of the Appellant's wife, it cannot be regarded as her personal information. Therefore,

prima facie, there is no ground to deny the information sought at points No. (i) and (ii). As regards point No. (iii), the information sought is regarding the leave record of the wife of the Appellant for the period April 2014 to the date of the RTI application (23.10.2015) and her postings. Such leave record of an employee and details of his / her postings can also not be regarded his or her personal information which has no relationship to any public activity or interest. However, the purpose of leave taken by an employee is his or her personal information, exempted from disclosure under Section 8 (1) (j) of the RTI Act. Therefore, prima facie, there is no ground to deny the dates of leave of the employee concerned, without, however, revealing the purpose of leave in each case.

5. At point No. (iv) of the RTI application dated 23.10.2015, the Appellant has sought copies of the record of the salary payments made by the Respondents to his wife during the months of March and April 2015. The details of salary paid to an employee, we note, is his or her personal information, exempted from disclosure under Section 8 (1) (j) of the RTI Act. The Appellant has not established any larger public interest for disclosure of this information to him. His personal dispute with the lady employee cannot be treated as the ground of larger public interest. In this connection, we also note the following observations made by the High Court of Delhi in its judgment dated 1.7.2009 in Vijay Prakash vs. UOI & Ors.:-

“23. As discussed earlier, the "public interest" argument of the Petitioner is premised on the plea that his wife is a public servant; he is in litigation with her, and requires information, - in the course of a private dispute - to establish the truth of his allegations. The CIC has held that there is no public interest element in the disclosure of such personal information, in the possession of the

information provider, i.e. the Indian Air Force. This court concurs with the view, on an application of the principles discussed. The petitioner has, not been able to justify how such disclosure would be in "public interest" : the litigation is, pure and simple, a private one. The basic protection afforded by virtue of the exemption (from disclosure) enacted under [Section 8\(1\)\(j\)](#) cannot be lifted or disturbed."

In view of the foregoing, we would not interfere with the decision of the Respondents to deny the information in so far as point No. (iv) is concerned.

6. In so far as points No. (i), (ii) and (iii) of the RTI application are concerned, taking into view the provisions of Section 11 of the RTI Act and what is stated in paragraph 4 above, we would like to give an opportunity to the third party, Ms. Priyanka Kumari to make her submissions, if any, before a decision is taken regarding disclosure of the information on the above points. Therefore, this matter is adjourned to be heard again on **21st February 2017 at 10.45 a.m.** through video-conferencing. The CPIO is directed to forward a copy of this interim order to Ms. Priyanka Kumari, immediately on its receipt by registered post, under intimation to the Commission, along with copies of the following documents:-

- (i) RTI application dated 23.10.2015.
- (ii) CPIO's reply.
- (iii) Appeal filed by the Appellant to the First Appellate Authority.
- (iv) Appeal dated 9.11.2015 filed by the Appellant to the Commission (copy enclosed).
- (v) Submissions dated 4.1.2017 made by the Appellant to the Commission (copy enclosed).

In case Ms. Priyanka Kumari wishes to make any submissions in the matter, she should be present for the hearing on 21.2.2017. The venue for video-conferencing for the hearing on 21.2.2017 will be as follows:-

For the Appellant

NIC Video Conferencing Studio,
District Centre, 1st Floor, Collectorate Building,
Buxar - 802103 (Bihar)

(Contact Officer: Shri Ajit Kumar (Scientific Officer). Contact No. : 06183- 226486)

For the Respondents and Ms. Priyanka Kumari

NIC Video Conferencing Studio,
State Centre, 3rd Floor, Technology Bhawan,
Bailey Road, Patna-800015 (Bihar)

(Contact Officer: Shri Tarakeshwar Prasad (Scientist-C) Contact No.: 0612-2545964)

7. Copies of this order be given free of cost to the parties.

Sd/-
(Sharat Sabharwal)
Information Commissioner

Authenticated true copy. Additional copies of orders shall be supplied against application and payment of the charges prescribed under the Act to the CPIO of this Commission.

(Vijay Bhalla)
Deputy Registrar