



**OFFICE OF THE  
ASSAM INFORMATION COMMISSION  
JONAKEE COMPLEX, PANJABARI, GUWAHATI-781037**

Case No. : SIC/KP(M)162/2021  
Complainant/ appellant : Sri Joydeb Das.  
Respondent : The SPIO, Personnel (A) Department, Dispur, Guwahati-06  
Date of hearing : 30.07.2021  
Complaint/ Second : Dr. A.P. Rout.  
Appeal heard by : State Chief Information Commissioner, Assam

**O R D E R**  
30.07.2021

1. The petitioner Sri Joydeb Das is present. The public authority i.e. the SPIO of the Personnel (A) Department Sri Dharani Dhar Das, Under Secretary is present. He has submitted a written statement dated 28.7.2021 which is taken into records.

2. On perusal of the case records, it is seen that the petitioner Sri Joydeb Das filed RTI petition dated 25.2.2021 before the SPIO, Department of Personnel (Personnel-A) seeking following information:-

- (i) Please furnish a copy of HSLC admit card and others qualification certificate submitted at the time of appointment by Sri Bhupesh Das, ACS presently posted as Joint Secretary, GAD Govt. of Assam.

3. The SPIO & Under Secretary of Personnel (A) Department wrote to Shri Bhupesh Chandra Das, ACS Joint Secretary of GAD vide letter No. AAP.95/2020/9 dated 4<sup>th</sup> March, 2021 regarding information sought for under RTI Act and requested him to intimate the reason if the sought for information should not be furnished to the petitioner.

Reportedly the petitioner filed first appeal petition dated 24.3.2021 before the Principal Secretary/First Appellate Authority of Personnel (A) Department.

However, Sri Bhupesh Chandra Das, ACS has intimated vide letter No. DDC/Cachar/Misc/RTI/2021/1319 dated 22<sup>nd</sup> April, 2021 to the Under Secretary & SPIO of Personnel (A) Department (a copy of which is also marked to the petitioner) stating that the information sought vide the RTI petition dated 25.2.2021 to be considered for exemption under Section 8(1)(j) of the RTI Act quoting Supreme Court's order dated 31.12.2018 relating to the case of Raj Shekharan VS Indian Institute of Technology, Chennai. Quoting the Supreme Court's order, he has pointed out that the education qualifications are personal information of the Citizen and exempted from disclosure under Section 8(1)(j) of the RTI Act. He further mentioned that there are never any exemptions if the information is solicited in large public interest. He has mentioned that there is no public interest involved in the RTI petition. Hence, the question does not arise for disclosure of personal information. Accordingly, the SPIO intimated this Commission vide letter dated 28.7.2021.

4. Though the SPIO wrote to Sri Bhupesh Ch. Das, ACS vide letter No. AAP.95/2020/9 dated 4<sup>th</sup> March, 2021 seeking permission to furnish the information but the letter does not mention anything about the third party information as per Section

11 of the RTI Act, 2005. However, the same SPIO intimated the petitioner vide letter No. AAP.95/2020/22 dated 30<sup>th</sup> April, 2021 that the information relates to third party information and the third party denied furnishing the information under Section 8(1) (j) of the RTI Act, 2005.

5. On scrutiny of the reply submitted by the 3<sup>rd</sup> party (Sri Bhupesh Chandra Das) vide letter No. DDC/Cachar/Misc/RTI/2021/1319 dated 22.4.2021 addressed to the SPIO (as intimated to the Commission by the SPIO), it is seen that the case relates to Raj Shekharan VS Indian Institute of Technology, Chennai and decided at the Central Information Commission on 31.12.2018. **IT IS NOT THE DECISION AT THE SUPREME COURT OF INDIA. THEREFORE, THE SUBMISSION OF THE THIRD PARTY (SRI BHUPESH CHANDRA DAS, ACS) IS FACTUALLY INCORRECT.**

6. The Supreme Court of India in its decision held 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, order, etc. but he cannot ask for any, information as to why such opinions, advices, circulars, order, etc. have been passed.”

7. As regards the information sought on personal details of the employees, their educational qualifications, Community and experience certificates, copy of testimonials, property returns filed by the staff members etc. etc. the Central Information Commission (in Raj Shekharan VS Indian Institute of Technology, Chennai dated 31.12.2018) observed that the same fell in the category of the Third Party information which was exempted from disclosure as per Section 8(1)(j) of the RTI Act, 2005. It has therefore referred to the judgment of the Hon’ble Supreme Court of India in Girish Ramchandra Deshpande vs Central Information Commission & ors. SLP (C) No. 27734 of 2012 dated 03/10/2012 wherein it was held as under.

“The performance of an employee/ officer in an organisation 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 Office 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.**”

8. **In Vijay Dheer Versus State Information Commission, Punjab & Ors (LNIND 2013 PNH 2263) it is held that the object and reasons of RTI Act are to ensure maximum disclosure and minimum exemptions consistent with the constitutional provisions and to provide for an effective mechanism for access to an information and disclosure by authorities.**

**Still further RTI Act has been enacted in order to promote transparency and accountability in the working of every public authority.**

9. As per Section 8 (1) (j) of the RTI Act, 2005 notwithstanding anything contained in this Act, there shall be no obligation to give any citizen, information which relates to personal information, the disclosure of which has no relationship to any public authority or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or 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.

10. In the mean time, the appellant vide his letter dated 30.7.2021 justified the public interest in the case as follows

- (i) **“Civil list is uploaded by the department every year. It is seen that up to 2018 Civil List of ACS, Shri Bhupesh Chandra Das’s date of birth was 1962, but in Civil List uploaded by the department in July 2021 date of birth of Shri Bhupesh Chandra Das, ACS is 28 February 1967.**
- (ii) Shri Bhupesh Chandra Das, ACS was posted as Executive Officer, Zilla Parishad, Darrang in 2017 was arrested by the Officials of Vigilance and Anti-Corruption, Assam on 22.09.2017 in connection with ACB PS Case No. 24/2017 U/S 7/13 (1) (D)/13(2) of the prevention of Corruption Act, 1988 and detained under custody beyond 48 hours”.

In view of the above it doubted that credibility of the Government that Shri Bhupesh Chandra Das, ACS recently transferred and posted as Deputy Commissioner, Sonitpur. The Deputy Commissioner post is very responsible post for a district and which needs to carry high integrity to serve the citizen and fulfill the goals and aspiration of the Govt. assured to the citizens of Assam

11. The expression “public interest” has to be understood in its true connotation so as to give complete meaning to the relevant provisions of the Act. In its common parlance, the expression “public interest”, like public purpose” is not capable of any precise definition. It does not have a rigid meaning, is elastic and takes its colour from the statue in which it occurs, the concept varying with time and state of society and its needs ( State of Bihaar v. Kameshwar Singh [ AIR 1952 SC 252].

It also means the general welfare of the public that warrants recognition and protection; something in which the public as a whole has a stake [ Black’s Law Dictionary (8<sup>th</sup> Edn)]

12. It is normally seen that transfer, posting order of officers are issued by the Government in the name of public interest. Additional duties are assigned and additional duties are also curtailed from the Officers in the name of public interest. Hence, the interpretation of term public interest has to be holistic and inclusive.

13. The appellant has brought serious allegation of manipulation of date of birth as mentioned in the Civil List which can be checked with matriculation and other certificates incorporating date of birth. Further, the appellant has mentioned that the position held by the Officer demand proper transparency and accountability. Therefore, in conformity with the basic objective of the Act i.e. to bring transparency and for maximum disclosure of the information and as the Section 8 of the RTI Act empowers, the Commission directs the SPIO to furnish copies of certificates of

matriculation and other qualifications having the date of birth of the officer within one month from the date of receipt of this order

Authenticated copies be given to all concerned.

14. The second appeal petition dated 14.6.2021 is hereby disposed off.

Sd/-  
(Dr. A.P. Rout)

Authenticated true copy.

Sd/-  
Secretary & Registrar  
Assam Information Commission

**Memo No. SIC/ KP(M)162/2021**

**Dtd. 30.07.2021**

Copy to:

1. Sri Dharani Dhar Das, Under Secretary & SPIO of Personnel (A) Department for information and necessary action
2. The First Appellate Authority of Personnel (A) Department, Dispur, Guwahati-06 for information and necessary action.
3. Shri Joydeb Das, S/o Late Karunamoy Das, H.No-16, Kushal Konwar Road, Near Mayur Krishna Cinema Hall, Ambari Fatashil, Ghy-25 for information.
4. Computer Section for uploading in the Website.
5. Office File.
6. Order Book.

Secretary & Registrar  
Assam Information Commission