

OFFICE OF THE
ASSAM INFORMATION COMMISSION

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Case No. : SIC/KPM 380/2022
Complainant/ Appellant : Shri P.K.Choudhury, IAS(Retd.)
Respondent : SPIO, O/o the Commissioner of Police, MG Road,
Panbazar, Guwahati 01
Date of Hearing : 05/09/2022
Complaint/ Second : Dr. A.P.Rout,
Appeal heard by : State Chief Information Commissioner, Assam

O R D E R
21/09/2022

1. In continuation of earlier order dated 25.8.2022, the matter was taken up for hearing.
2. The petitioner Shri P.K.Choudhury, IAS(Retd.) is present.
3. The Public Authority is represented by Shri Hemanta Kumar Das, APS, DCP(A), Police Commissionerate, Guwahati.
4. The First Appellate Authority & Joint Commissioner of Police, Panbazar, Guwahati has enclosed a judgement of Supreme Court in the case of Canara Bank Vs. CS Shyam (Civil Appeal No.22 of 2009 Dtd. 31/8/2017) wherein a part of the order is quoted as follows *Quote* the aforementioned principle of law applies to the facts of this case on all force. It is for the reasons that, firstly, the information sought by respondent No.1 of individual employees working in the Bank was personal in nature; secondly, it was exempted from being disclosed under [Section 8\(j\)](#) of the Act and lastly, neither respondent No.1 disclosed any public interest much less larger public interest involved in seeking such information of the individual employee and nor any finding was recorded by the Central Information Commission and the High Court as to the involvement of any larger public interest in supplying such information to respondent No.1. *Unquote*.
5. In response to that the petitioner has submitted a written statement elaborating his point of views in response to the exemption sought by SPIO/1st Appellate Authority in connection with Canara Bank Vs. CS Shyam (Civil Appeal No.22 of 2009 Dtd. 31/8/2017) which *quotes* the order of the Hon'ble Supreme Court of India in Canara Bank Vs. C S Shyam has been cited to reject my request for information under the RTI Act, 2005 in respect of some police personnel posted in the Gitanagar Police Station in Guwahati. It is my submission that this order as well as the RTI Act 2005 does not prohibit supply of information if a larger public interest is involved.

It is my contention that to thwart expose and penalize such elements who have been working against public interest is itself an act of public interest. It is with this in view that I have lodged the FIRs twice with the police over the years. As the State seems to have abdicated its constitutional and statutory responsibility, I have no opinion but to try and do the needful myself. It is in this direction, that I have as a first step sought information in respect of the police personnel in the Gitanagar PS, who I believe are the lowest level operatives in this entire chain.

In view of the submission above, I would like to state that my request for information under the RTI Act, 2005 in respect of some police personnel in the Gitanagar Police Station is entirely in the larger public interest. As such, I would request you to set aside the order of the First Appellate Authority dated 6.5.2022 and direct the SPIO, O/o the Commissioner of Police, Guwahati to provide me with the information as prayed for by me *Unquote*.

6. The contents of the counter argument of the petitioner is that the Police Personnel who are posted at public cost and discharge duty in public interest.

Further, the police in particular and the state in general is supposed to uphold the constitutional and statutory responsibilities in honest discharge of public duties.

7. The SPIO, Deputy Commissioner of Police, (Admn.), Guwahati vide letter dated 25.3.2022 withhold information under the provision of Section 8(1)(a)(g)(h) of the RTI Act, 2005.
8. The First Appellate Authority & Joint Commissioner of Police, Panbazar, Guwahati in response to RTI appeal passed an order on 6.5.2022 rejecting the disclosure of personal information of the officers in conformity with the Supreme Court order vide *Canara Bank Vs. CS Shyam* (Civil Appeal No.22 of 2009 Dtd. 31/8/2017).
9. The contention of the petitioner, the ground of rejection by the SPIO as well as First Appellate Authority to be analyzed by the Commission as follows:

(a) The provision of Section 8(1)(a) Quote: information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;

In the instant case, the Commission does not feel that Section 8(1)(a) can be attracted.

(b) Section 8(1)(g) which *quotes* 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; *unquote*

The Commission does not feel that this provision can be attracted in this case.

(c) Section 8(1)(h) which *quotes* information which would impede the process of investigation or apprehension or prosecution of offenders *Unquote*.

The Commission feels that the posting of officers and their continuation would not in any way attract the provision of Section 8(h) as the Commission feels.

10. The Commission would like to examine the Supreme Court Order *quote* the aforementioned principle of law applies to the facts of this case on all force. It is for the reasons that, firstly, the information sought by respondent No.1 of individual employees working in the Bank was personal in nature; secondly, it was exempted from being disclosed under [Section 8\(j\)](#) of the Act and lastly, neither respondent No.1 disclosed any public interest much less larger public interest involved in seeking such information of the individual employee and nor any finding was recorded by the Central Information Commission and the High Court as to the involvement of any larger public interest in supplying such information to respondent No.1. *Unquote*.

The Appellate Authority while quoting the above Supreme Court order has taken the recourse of Section 8(1)(j) of the RTI Act, 2005.

The whole case comes under the exemption of section 8(1)(j) which *quotes* 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 CPIO or the SPIO or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information;

Provided that the information, which cannot be denied to the Parliament or a State Legislature shall not be denied to any person *unquote*.

11. Referring to **Girish Ramchandra Deshpande vs Central Information Commissioner.& Ors on 3 October, 2012** which though held that the personal information u/s 8(1)(j) of the RTI Act, 2005 relates to performance of an

employee 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.

Again in Vijay Dheer vs State Information Commission, Punjab on 4 March, 2013 though held that object and reasons of the Act recite that the provisions of the 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.

12. Further the District Civil Police is a people friendly police. Name and phone numbers of not only the SHO/OC to be shared and displayed prominently for the benefit of the people to ventilate their problems but also to accessed in community policing.

Similarly the name and phone numbers of Beat Police and Constable are also to be intimated to the people in their jurisdictions for better policing.

As practiced in Assam as well as in India, the disposition chart is normally displayed in Police Station so that the public can know the name of the officers and feel free to contact either for their problem or to inform the police against miscreants as and when required.

13. The Commission relying on the provision of Section 8(1)(j) i.e., Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person and on the ground that open display of disposition list of officers in Police Station justifies that this particular information will not cause unwarranted invasion of privacy of individual, orders that the information as sought to be provided to the petitioner.

However, the names of armed personnel (if any) posted at the Police Station need not be provided.

Hence, the SPIO to provide the necessary information as sought for vide RTI petition dated 14.3.2022 to the petitioner within fifteen days from the date of receipt of this order.

14. The case is disposed off.

Authenticated copies to be given to all concerned.

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

Authenticated true copy.

Sd/-
Registrar
Assam Information Commission

Memo No. SIC/KP(M).380/2022

Dtd. 21.09.2022

Copy to:

1. The SPIO, O/o the Commissioner of Police, M.G.Road, Panbazar, Guwahati, Assam 781001 for information and necessary action as ordered above.
2. The petitioner Shri P.K.Choudhury, IAS (Retd.), 284A, Mother Teresa Road, Geetanagar, Guwahati 781024 for information.
3. Computer Section for uploading in the Website.
4. Office File.
5. Order Book.

Registrar
Assam Information Commission