

केन्द्रीय सूचना आयोग  
Central Information Commission  
बाबागंगनाथमार्ग, मुनिरका  
Baba Gangnath Marg, Munirka  
नईदिल्ली, New Delhi – 110067

**File No : CIC/NCFWO/A/2021/619871**

**Aniket Aga**

**.....अपीलकर्ता/Appellant**

VERSUS

बनाम

**CPIO,**

National Commission for Women,  
RTI Cell, Plot No. 21, Jasola  
Institutional Area, New Delhi – 110025.

**....प्रतिवादीगण /Respondent**

Date of Hearing : 14/06/2022

Date of Decision : 10/08/2022

**INFORMATION COMMISSIONER : Saroj Punhani**

**Relevant facts emerging from appeal:**

RTI application filed on : 16/12/2020

CPIO replied on : 11/01/2021 & 22/02/2021

First appeal filed on : 12/01/2021

First Appellate Authority order : 12/02/2021

2nd Appeal/Complaint dated : 25/05/2021

**Information sought:**

The Appellant filed an online RTI application dated 16.12.2020 seeking the following information:

*“On January 27, 2020, NCW Chairperson Rekha Sharma officially warned the Government of Kerala against love jihad. She stated: I conducted a detailed enquiry into the forceful conversion and love jihad and women leaving the country. This was reported by The New Indian Express: <https://www.newindianexpress.com/states/kerala/2020/jan/27/ncwchairperson-urges-keralagovernment-to-act-against-love-jihad-2095109.html> and*

also by India Today: <https://www.indiatoday.in/india/story/women-used-sex-objects-name-of-love-jihad-ncw-chief-urges-kerala-govt-toact-1640524-2020-01-27>

With reference to the above, please provide me with:

1. Terms of reference of the inquiry conducted by Rekha Sharma.
2. Date on which inquiry was initiated.
3. Time period of the inquiry.
4. Order/memo through which the inquiry was launched.
5. Notes, drafts, memos, etc. pertaining to the inquiry conducted by Rekha Sharma.
6. Copy of the report of the inquiry conducted by Rekha Sharma.
7. File notings pertaining to the inquiry conducted by Rekha Sharma.”

The CPIO furnished a point wise reply to the appellant on 11.01.2021 stating as follows:-

*Point No. 1:- As per record, the committee shall investigate into the case to accordance with the procedure laid down under Section 10(1) read with Section 10(4) of the NCW Act, 1990.*

*Point No. 2:- As per record, date on inquiry was initiated on 05/11/2017.*

*Point No. 3:- As per record, time period of the inquiry on 05/11/2017-08/11/2017*

*Point No. 4 to 7:- In regard to your RTI application, it is pertained to mention that the matter fall under section 8(1) (j) of the RTI Act and information sought by you which relates to personal information, the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual. Therefore, the information cannot be provided.*

Being dissatisfied, the appellant filed a First Appeal dated 12.01.2021. FAA's order dated 12.02.2021 held as under:-

*“...Dr. Rajeev Kumar, CPIO & Under Secretary, NCW is hereby directed to provide information pertaining to point No. 4 to 7 in RTI application dated 16.12.2020 available in NCW, within ten working days.”*

In compliance with the FAA's order, the CPIO furnished a revised reply to the appellant on 22.02.2021 by stating as follows:-

*Point No. 4, 5 & 7:- As per available records, the copies of order/Memo including note sheet pertaining to the inquiry is annexed. (Total 5 pages).*

*Point No. 6:- The information cannot be shared in accordance with Section 8(1)(g) of the RTI Act, 2005.*

Feeling aggrieved and dissatisfied, the appellant approached the Commission with the instant Second Appeal on the ground of wrong denial of information by the CPIO against *points no. 6* of RTI Application.

### **Relevant Facts emerging during Hearing:**

The following were present:-

**Appellant:** Present through audio-conference.

**Respondent:** Arun Khurana, Section Officer & CPIO present through audio-conference.

The Appellant invited attention of the bench towards his latest written submission dated 13.06.2022, relevant portion of which is as under –

*“...5) On 01/03/2021, I received a communication from CPIO, NCW. Going against the order of the FAA, the CPIO withheld information pertaining to point no. 6 in my request. The CPIO stated:*

*Point No. 6:- The information cannot be shared in accordance with Section 8(1)(g) of the RTI Act, 2005.*

*6) The decision by the First Appellate Authority is binding on the PIO. Objections to disclosure, if any, have to be raised by the PIO at the time of the hearing of the first appeal. After the First Appellate Authority has ordered disclosure, the PIO cannot invoke a fresh exemption clause to deny information. Hence this second appeal.*

*6.1) The invocation of Section 8(1)(g) after the FAA has ordered complete disclosure is not only procedurally invalid, but also bad in law and indicates non-application of mind by the PIO.*

*6.2) As described in the first and second appeals, the case of love jihad in Kerala has already received public attention and media coverage, through news reports, pronouncements by public personalities, politicians, government officers, lawyers and police officers. Since all the facts are already in the public domain, there is no risk to physical safety of any person or risk of identifying the source of information or assistance given in confidence for law enforcement or security purposes.*

*Therefore, section 8(1)(g) cannot be applied to the inquiry report, which must be disclosed as already ordered by the First Appellate Authority, NCW.*

6.3) *The PIO cannot simply assert that Section 8(1)(g) applies to point no. 6 of my RTI request, but has to justify with reasons how and why.*

6.4) *Further, u/s 10 the PIO is obligated to sever such information where Section 8(1)(g) applies, and disclose everything else to me..."*

Lastly, to a query from the Commission the Appellant contested that the information sought by him more particularly a copy of the inquiry report in the averred case involves larger public interest and also reflects on the law and order of the State therefore, it should be provided by the CPIO.

Per contra, the CPIO reiterated the contents of his written submission filed prior to the hearing, which is as under –

*A. That Shri Aniket Aga had sought following information under the RTI Act, vide her online RTI Application No. NCFWO/R/E/20/00501 dated 16.12.2020 (Annexure-I) and sought following information.*

*Point No. 1:- Terms of reference of the inquiry conducted by Rekha Sharma.*

*Point No. 2:- Date on which inquiry was initiated.*

*Point No. 3:- Time period of the inquiry.*

*Point No. 4:- Order/memo through which the inquiry was launched.*

*Point No. 5:- Notes, drafts, memos, etc. pertaining to the inquiry conducted by Rekha Sharma.*

*Point No. 6:- Copy of the report of the inquiry conducted by Rekha Sharma.*

*Point No.7:- File notings pertaining to the inquiry conducted by Rekha Sharma.*

*B. Accordingly, Dr. Rajeev Kumar, the then CPIO furnished information to the RTI applicant vide letter dated 11.01.2021 (Annexure-II). Following reply was furnished by CPIO:-*

*Point No. 1:- As per record, the committee shall investigate into the case to accordance with the procedure laid down under Section 10(1) read with Section 10(4) of the NCW Act, 1990.*

*Point No. 2:- As per record, date on inquiry was initiated on 05/11/2017.*

*Point No. 3:- As per record, time period of the inquiry 05/11/ 017- 08/11/2017.*

*Point No. 4 to 7:- In regard to your RTI application, it is pertained to mention that the matter fall under section 8(1) (j) of the RTI Act and information sought by you which relates to personal information, the disclosure of which his no relationship to any public activity or interest, or which would cause*

*unwarranted invasion of the privacy of the individual. Therefore, the information cannot be provided.*

*C. That Shri Aniket Aga filed online First Appeal No. NCFWO/A/E/21/00004 dated 12.01.2021 (Annexure-III) and sought following information.*

*Point No. 1:- Terms of reference of the inquiry conducted by Rekha Sharma.*

*Point No. 2:- Date on which inquiry was initiated. Point No. 3:- Time period of the inquiry.*

*Point No. 4:- Order/memo through which the inquiry was launched. Point No.*

*5:- Notes, drafts, memos, etc. pertaining to the inquiry conducted by Rekha Sharma.*

*Point No. 6:- Copy of the report of the inquiry conducted by Rekha Sharma.*

*Point No. 7:- File notings pertaining to the inquiry conducted by Rekha Sharma.*

*D. Vide order dated 12.02.2021, the FAA's directed to CPIO to provide information pertaining to point No. 4 to 7 in respect of RTI application dated 16.12.2022 thin 10 working days. (Annexure-IV)*

*E. Accordingly, in compliance of FAA's order dated 12.02.2021, the Then CPIO had provided a reply on 22.02.2021 (Annexure-V). The Following reply was furnished by CPIO:-*

*Point No. 4, 5 & 7:- As per available records, the copies of order/Memo including note sheet pertaining to the inquiry is enclosed. (Total 5 pages)*

*Point No. 6:- The information cannot be shared in accordance with Section 8 (1)(g) of the RTI Act, 2005.*

*F. As indicated above, the information sought by the RTI Applicant has already been provided by this office at the time of application as well as on 1st Appellate*

*G. The above facts may please be placed before the Hon'ble Information Commission and appeal may be disposed off accordingly*

At the instance of the Commission, the CPIO further explained that as per the norms, the inquiry reports invariably are made public by the NCW, however the subject matter of the instant case being sensitive in nature and may perhaps lead to riots between the communities, hence such report has not been uploaded on their Website keeping in view the provisions of Section 8(1)(g) of RTI Act.

### **Decision:**

The Commission after taking into account all the facts and circumstances of the case is of the considered opinion that the information sought by the Appellant through the instant RTI Application contains the elements of personal information of third parties which is squarely hit by Section 8(1)(j) of RTI Act. In

this regard, attention of the Appellant is drawn towards a judgement of Hon'ble Supreme Court of India in the matter of **Central Public Information Officer, Supreme Court of India Vs. Subhash Chandra Agarwal in Civil Appeal No. 10044 of 2010 with Civil Appeal No. 10045 of 2010 and Civil Appeal No. 2683 of 2010** wherein while explaining the import of "personal information" envisaged under Section 8(1)(j) of RTI Act has been exemplified in the context of earlier ratios laid down by the same Court in the matter(s) of **Canara Bank Vs. C.S. Shyam in Civil Appeal No.22 of 2009; Girish Ramchandra Deshpande vs. Central Information Commissioner & Ors., (2013) 1 SCC 212 and R.K. Jain vs. Union of India & Anr., (2013) 14 SCC 794.**The following was thus held:

*"59. Reading of the aforesaid judicial precedents, in our opinion, would indicate that personal records, including name, address, physical, mental and psychological status, marks obtained, grades and answer sheets, are all treated as personal information. Similarly, professional records, including qualification, performance, evaluation reports, ACRs, disciplinary proceedings, etc. are all personal information. Medical records, treatment, choice of medicine, list of hospitals and doctors visited, findings recorded, including that of the family members, information relating to assets, liabilities, income tax returns, details of investments, lending and borrowing, etc. are personal information. Such personal information is entitled to protection from unwarranted invasion of privacy and conditional access is available when stipulation of larger public interest is satisfied. This list is indicative and not exhaustive..."*  
**(Emphasis Supplied)**

In addition to the aforesaid observation, the Commission taking note of the CPIO's submission regarding the sensitivity of the report sought cannot be divulged or made public under Section 8(1)(g) of RTI Act keeping in view the safety of life of the third parties. Relevant extract of Section 8(1)(g) of RTI Act is reproduced below for ready reference –

***(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;***

In view of the above said observations, the order passed by the FAA directing the CPIO to provide third party's personal information is untenable and liable to be set aside. Nonetheless, in compliance with FAA's order, the CPIO has provided relevant details to the Appellant. In view of this, the contentions raised by the Appellant regarding non-compliance of FAA's order by the CPIO as regards to

disclosure of information against *point no. 6* of RTI Application is rendered inconsequential.

Further, the Commission is not inclined to accept the contention of larger public interest subsisting in the matter keeping in view a catena of judgments of the superior Courts as under with respect to the aspect of larger public interest:

The Hon'ble Supreme Court in the matter of ***Bihar Public Service Commission vs. Saiyed Hussain Abbas Rizwi & Anr. [CIVIL APPEAL NO.9052 OF 2012]*** observed as under:

*“23. 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. The expression ‘public interest’ must be viewed in its strict sense with all its exceptions so as to justify denial of a statutory exemption in terms 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 statute in which it occurs, the concept varying with time and state of society and its needs. [State of Bihar v. Kameshwar Singh (AIR 1952 SC 252)]. **It also means the general welfare of the public that warrants recommendation and protection; something in which the public as a whole has a stake [Black’s Law Dictionary (Eighth Edition)]. Emphasis Supplied***

*“24. The satisfaction has to be arrived at by the authorities objectively and the consequences of such disclosure have to be weighed with regard to circumstances of a given case. The decision has to be based on objective satisfaction recorded for ensuring that larger public interest outweighs unwarranted invasion of privacy or other factors stated in the provision. **Certain matters, particularly in relation to appointment, are required to be dealt with great confidentiality.**”*

*“... Similarly, there may be cases where the disclosure has no relationship to any public activity or interest or it may even cause unwarranted invasion of privacy of the individual. All these protections have to be given their due implementation as they spring from statutory exemptions. **It is not a decision simpliciter between private interest and public interest. It is a matter where a constitutional protection is available to a person with regard to the right to privacy. Thus, the public interest has to be construed while keeping in mind the balance factor between right to privacy and right to information with the purpose sought to be achieved and the purpose that would be served in the***

***larger public interest, particularly when both these rights emerge from the constitutional values under the Constitution of India.” Emphasis Supplied***

Similarly, in another judgment of the Hon’ble Supreme Court in the matter of ***S. P. Gupta v President of India, [AIR 1982 SC 149]***, with reference to ‘public interest’ it has been maintained that:

***“Redressing public injury, enforcing public duty, protecting social, collective, ‘diffused’ rights and interests vindicate public interest.. [in the enforcement of which] the public or a class of the community have pecuniary interest or some interest by which their legal rights or liabilities are affected.” Emphasis Supplied***

And, in the matter of ***State of Gujarat vs. Mirzapur Moti Kureshi Kasab Jamat & others [Appeal (Civil) 4937-4940 of 1998]***, the Hon’ble Supreme Court has held that:

***“the interest of general public (public interest) is of a wide importance covering public order, public health, public security, morals, economic welfare of the community, and the objects mentioned in Part IV of the Constitution [i.e. Directive Principles of State Policy]”. Emphasis Supplied***

As it follows, in the considered opinion of this bench, the Appellant has not substantiated any larger public interest in any of the above referred contexts, and therefore , the Commission is not in a position to ascribe any credence to his contentions.

Having discussed as above, no action is warranted in the instant case.

**The appeal is disposed of accordingly.**

**Saroj Punhani (सरोजपुनहानि)  
Information Commissioner (सूचनाआयुक्त)**

Authenticated true copy  
(अभिप्रमाणित सत्यापित प्रति)

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