



2024:DHC:5380-DB



§~71

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LPA 523/2024 & C.M.Nos.36329-36331/2024

RAVI PRAKASH SONI

...Appellant

Through: Appellant-in-person alongwith his son.

versus

CENTRAL INFORMATION COMMISSION AND ORS.

...Respondents

Through: Mr. Arun Aggarwal, Mr. Shivam Saini and Mr. Praful Rawat, Advocates for R-2 & 3.

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**Date of Decision: 18<sup>th</sup> July, 2024**

**CORAM:**

**HON'BLE THE ACTING CHIEF JUSTICE**

**HON'BLE MR. JUSTICE TUSHAR RAO GEDELA**

**JUDGMENT**

**MANMOHAN, ACJ: (ORAL)**

**CM APPL. 39822/2024 (FOR RESTORATION)**

1. Present application has been filed under Order IX Rule 4 of the Code of Civil Procedure, 1908 seeking restoration of the present appeal which was dismissed in default and on account of non-prosecution *vide* order dated 03<sup>rd</sup> July, 2024.

2. Considering the submissions made by the applicant/appellant through his son, and for the reasons stated in the application, the present application is allowed.



3. Present appeal is restored to its original number.

**LPA 523/2024 & C.M.Nos.36329-36331/2024**

4. Present appeal has been filed under Clause X of the Letters Patent Act, 1866 seeking setting aside of the impugned judgement dated 20<sup>th</sup> March, 2024 passed in underlying writ petition bearing W.P.(C) 3793/2024 whereby the learned Single Judge had dismissed the said writ petition upholding the reasoning given by the Central Information Commission (CIC) in its order dated 17<sup>th</sup> January, 2024, while rejecting the second appeal filed by the appellant.

5. The crux of the matter pertains to an online Right to Information (RTI) application filed under Section 6(1) of the Right to Information Act, 2005 (hereinafter referred to as the “*RTI Act*”) by the appellant with respondent no.2/Bank.

6. The appellant being represented through his son states that the appellant's father had hired a bank locker at the Sardarshahar Branch of Bank of Baroda, situated in Tehshil Sardarshahar, District Churu, Rajasthan. Following the demise of the appellant's father on 21<sup>st</sup> September, 2011, while the bank locker remained active and operational till the date of filing of the RTI application, the appellant, being the legal heir of the deceased father, had filed an online RTI application on 03<sup>rd</sup> September, 2021 with respondent no.2, seeking specific information concerning the locker.

7. The appellant further states that the respondent no.2 rejected the RTI application through an order dated 01<sup>st</sup> October, 2021, citing Section 8(1)



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(j) & (e) of the RTI Act. In response, the appellant filed an online appeal with the respondent no.3 under Section 19(1) of the RTI Act dated 07<sup>th</sup> October, 2021. Although respondent no.3 upheld the decision of respondent no.2, it treated the appeal as a complaint and issued an order dated 29<sup>th</sup> October, 2021 instructing respondent no.2 to take necessary action.

8. Following the issuance of the order, the appellant sought information from both, the respondent no.2 *via* email dated 06<sup>th</sup> January, 2022, and respondent no.3 *via* email dated 04<sup>th</sup> January, 2022, regarding the steps taken in accordance with the order dated 29<sup>th</sup> October, 2021, from respondent no.3, but received no response. Aggrieved by the non-responsive behaviour of both the respondents, the appellant approached respondent no.1 and filed an online complaint under Section 18 of the RTI Act against respondent nos.2 and 3.

9. The aforementioned complaint underwent scheduled hearings on two separate occasions, first on 08<sup>th</sup> August, 2023, which the appellant could not attend due to medical reasons, and secondly on 16<sup>th</sup> January, 2024, attended by the authorized representative of the appellant, i.e., the appellant's son. The authorized representative, pursuant to the directives in the hearing notice dated 28<sup>th</sup> December, 2023, issued by respondent no.1, presented an authorization letter duly signed by the appellant along with the authorized representative's Voter ID card as a valid proof of identity at the time of attending the hearing through video conferencing. Following due scrutiny by the officials in the presence of the learned Commissioner



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appointed by respondent no.1, to adjudicate the appellant's case, the authorized representative was permitted to attend the hearing. However, during the course of the hearing, the learned Commissioner presiding over the case on behalf of respondent no.1 refused to entertain the submissions of the authorized representative of the appellant, contending that she was not obligated to hear the authorized representative. Consequently, the learned Commissioner concluded the hearing without affording the authorized representative a meaningful opportunity to contest the appellant's case. The appellant had also filed online written submission along with an application for condonation of delay in filing the written submission on 16<sup>th</sup> January, 2024, before the scheduled hearing. Subsequently, the learned Commissioner issued an order dated 17<sup>th</sup> January, 2024, citing the appellant's absence. Even the written submissions filed on behalf of the appellant were not taken into consideration by the learned Commissioner in her order though the order was passed on the next day of the scheduled hearing.

10. It is submitted that this act of the learned Commissioner is alleged to be in conflict with the law as stipulated in Rule 12 of the Right to Information Rules, 2012, and deemed biased, an abuse of authority, and contrary to the principles of natural justice enshrined in the maxim "*audi alteram partem*".

11. Against the said impugned order dated 17<sup>th</sup> January, 2024, passed by the respondent no.1, the appellant filed a petition being W.P.(C) 3793/2024 under Article 226 of the Constitution of India, 1950 to quash and set aside



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the same on the grounds of violation of principles of natural justice and the same was listed before the learned Single Judge on 20<sup>th</sup> March, 2024. The learned Single Judge dismissed the writ petition stating that the reasoning given by the respondent no. 1 in disposing of the appellant's complaint is not perverse and does not call for interference under Article 226 of the Constitution of India. Aggrieved by the same, the appellant filed the present appeal.

12. The son of the appellant, who is an Advocate, seeks and is granted permission to address arguments on behalf of the appellant. He submits that the primary grievance of the appellant is in respect of rejection of his RTI Application under the provisions of Section 8(1)(e) and (j) of the RTI Act, 2005. He submits that it is not disputed that the father of the appellant held the Locker no.231 with the Bank of Baroda and as such, the appellant after the death of his father had a fiduciary relationship with the bank. Thus, the respondents could not have refused providing the information sought by the appellant.

13. He also submits that the order of the CIC though mentions that there are family disputes between the parties, yet neither discloses the names of the family members nor the nature of disputes. According to him, the said observation is without any factual basis. He further submits that the order of the CIC also did not mention the name of the nominees or the heirs of the locker holder, whose interests were allegedly going to be affected. He submits that the order of the CIC incorrectly notes that the appellant was not present, whereas, the appellant was indeed present before the CIC and



had submitted his arguments which have not been recorded in the order of the CIC.

14. On the basis of the aforesaid arguments, he submits that there has been a grave violation of principles of natural justice, which the learned Single Judge failed to consider in the impugned judgment. He submits that the learned Single Judge has incorrectly interpreted the import and purport of sub-sections (e) and (j) of Section 8 (1) of the RTI Act. In that, despite recognizing that the appellant was the son of the account holder/locker holder, went into the question of whether the information sought was in larger public interest or which would cause unwarranted invasion of the privacy of the individual. This, according to him, was unwarranted. He submits that once it is not disputed that the appellant was the son of the locker holder, the information sought in respect thereto should be available to the legal heirs of the locker holder.

15. He submits that as per Section 8(2) of the RTI Act, all the information kept with the institutions is to be divulged in the ordinary course except those situations which are covered by Section 8 of the RTI Act. He submits that the information sought by the appellant is in respect of a locker held by the late father of the appellant and as such, is neither a third party information nor an information which needs to be pre-qualified as that falling within the ambit of "*larger public interest*".

16. He further submits that the learned Single Judge also did not take into the consideration the submission that neither the appellant was heard in person, though present, nor were the written submissions submitted by



him before the CIC taken into consideration before passing the impugned judgment. This according to him, tantamounts to violation of principles of natural justice.

17. *Per contra*, learned counsel for the respondent bank reiterates the observations made by the learned Single Judge in the impugned judgment. He submits that since there were disputes between the family members, the authorities have rightly rejected the RTI application of the appellant. He also submits that in order to obtain such information, the appellant ought to primarily demonstrate that the exceptions under Clauses (e) and (j) of Section 8(1) of the RTI Act do not apply to the information so sought. He submits that the appellant failed to establish any such entitlement and was rightly refused the information.

18. We have heard the learned counsel for the parties, perused the impugned judgment and considered the records of the appeal.

19. Much stress was laid on the provisions of sub-sections (e) and (j) of Section 8(1) of the RTI Act. It would thus be relevant to consider the same before proceeding with the appeal. The same are reproduced hereunder:-

***“8(1) Exemption from disclosure of information.—(1)***  
*Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,—*

***8(1)(e)*** *information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;*

***8(1)(j)*** *information 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 unless the Central Public Information Officer or the 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:*

*8(2) Notwithstanding anything in the Official Secrets Act, 1923 (19 of 1923) nor any of the exemptions permissible in accordance with sub-section (1), a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.”*

20. It is evident that Section 8(1) is a *non obstante* clause and is an exception to the obligation to disclose information which is sought by a citizen from any institution, covered within the provisions of the Act. It is trite that a *non obstante* clause would ordinarily have an overriding effect on the remaining provisions of the said Act. As such, the provisions have to be read strictly. It is evident from a perusal of sub-section (e) that even in a case where a fiduciary relationship exists, unless the Competent Authority is satisfied that larger public interest warrants the disclosure of such information, such information can be refused. Sub-Section (j) also is an exemption from disclosure of information which has no relationship to any public activity or interest, or which would cause unwarranted invasion of privacy of the individual unless the Competent Authority is satisfied that the larger public interest justifies such disclosure.

21. It is clear that in both the sub-sections, the subjective satisfaction of the Competent Authority of “*larger public interest*” justifying such disclosure is necessary before any such disclosure is made available. In the present case, the appellant seeks certain information in respect of a bank locker held by his late father. Going by the recitals of the orders passed by the information authorities, it is apparent that there are disputes between





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the legal heirs in respect of the bank locker. Once there are disputes pending between the legal heirs of the late father of the appellant, the bank could not play the role of an adjudicator or identify itself with any party, lest it be blamed for partisanism. That apart, the appellant has ample efficacious and alternate remedy to summon any such information in the court of law, as and when the need arises, in accordance with law. Thus, the refusal for divulging the information so sought cannot be faulted. Moreover, the fiduciary relationship existed between the bank and the late father of the appellant alone.

22. We have also considered the issue of refusal of information on the grounds of lack of larger public interest. It appears from the orders of the information authorities as also the impugned judgement of the learned Single Judge that this issue has not commended itself to either the authorities or to the learned Single Judge. The reason is not far to see. Apparently, the appellant appears to be seeking some information relating to the bank locker held by the late father, pending disputes between the legal heirs and there cannot possibly be any public interest in that, much less any larger public interest. The words "*larger public interest*" would, in our view, have an impact on a broad section of the society and not individual interests or conflicts. It cannot be defined in a straight jacket formula and has to be interpreted on a case to case basis. Suffice it to say that the appellant has not been able to demonstrate, in the facts of the case, as to what that "*larger public interest*" would be. On this aspect too, we concur with the reasoning of the learned Single Judge.



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23. On the submission of the principles of natural justice having been violated by both, the information authorities and the learned Single Judge, suffice it to say that the reasoning rendered by the said authorities and the learned Single Judge, in our opinion, do not suffer from any such vice. Even otherwise, the learned Single Judge has already dealt with this issue too alongwith the merits of the matter and has passed the impugned judgement. We do not find any reason to differ with the opinion rendered by the learned Single Judge on this issue. In fact, the orders contain clear and precise justification for refusal from divulging information as observed above. In these circumstances, we reject the said contention too.

24. As an upshot of the above analysis, the present appeal is devoid of merits and is dismissed, however without any order as to costs.

25. Pending applications, if any, also stand disposed of.

**ACTING CHIEF JUSTICE**

**TUSHAR RAO GEDELA, J**

**JULY 18, 2024**

*Aj/rl*