



WP(C) NO. 493 OF 2019

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2026:KER:34827

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

MONDAY, THE 25<sup>th</sup> DAY OF MAY 2026 / 4<sup>th</sup> JYAISHTA, 1948

WP(C) NO. 493 OF 2019

PETITIONERS:

- 1 THE STATE PUBLIC INFORMATION OFFICER AND UNDER SECRETARY, KERALA PUBLIC SERVICE COMMISSION, PATTOM, THIRUVANANTHAPURAM.
- 2 THE APPELLATE AUTHORITY AND JOINT SECRETARY, ADVICE (LITIGATION), PATTOM, THIRUVANANTHAPURAM.
- 3 KERALA PUBLIC SERVICE COMMISSION, REPRESENTED BY ITS SECRETARY, PATTOM, THIRUVANANTHAPURAM.

BY ADVS. SHRI.P.C.SASIDHARAN, SC, KPSC  
SRI.MILLU DANDAPANI

RESPONDENTS:

- 1 THE KERALA STATE INFORMATION COMMISSION, REPRESENTED BY ITS SECRETARY, OFFICE OF THE STATE INFORMATION COMMISSION, PUNNAN ROAD, THIRUVANNATHPAURAM-695001.
- 2 RANI WILDFRED, DEPUTY SECRETARY, KERALA PUBLIC SERVICE COMMISSION, O/O KERALA PUBLIC SERVICE COMMISSION, THIRUVANANTHAPURAM-695001.

BY ADVS. SHRI.AYPE JOSEPH  
SRI.L.T.LEJU KUMAR  
SRI. M. AJAY, SC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON  
30.01.2026, THE COURT ON 25.05.2026 DELIVERED THE FOLLOWING:



'CR'

**JUDGMENT**

*“In fact, paradoxically, government is more open when it is less open”*

Sir Humphrey Appleby in 'Yes Minister'

The State Public Information Officer of the Kerala Public Service Commission and the Appellate Authority constituted under the Right to Information Act, 2005 (hereinafter RTI Act), and the Kerala Public Service Commission (KPSC) are the petitioners in the writ petition, filed against the order passed by the Kerala State Information Commission.

2. The 2<sup>nd</sup> respondent, who worked as Joint Secretary under KPSC, sought Ext.P1 RTI application seeking copies of the extract of the orders in File No.SS I (1) 162/14/GW, which relates to disciplinary proceedings initiated against her, alleging grave irregularities in handling cash, and that the physical balance of the cash did not tally with the book balance and a shortage of



Rs.25341/- as found out by the Internal Audit Wing. Following this, the second respondent was suspended pending enquiry, and a memo of charges was issued. In the enquiry, it was found that the 2<sup>nd</sup> respondent made false entries in the cash transactions, and a punishment of barring increment was imposed on her apart from the recovery of the amount determined as loss to PSC, and the 2<sup>nd</sup> respondent remitted the amount with interest. An appeal was filed against the imposition of the punishment, which the Commission considered and rejected by order dated 13.10.2008.

2.1. On 7.4.2014, a petition was preferred by the 2<sup>nd</sup> respondent, six years after imposing the punishment, to reconsider the matter. She also filed another petition to review the decision dated 13.10.2008, which the Chairman examined and rejected by order dated 16.01.2017. It is with reference to the above-mentioned file, i.e., File No. SS I (1) 162/14/GW that the information was sought for under the RTI Act through Ext.P1 application. The Information Officer gave Ext.P2 reply dated 9.05.2017, stating that the



information requested cannot be disclosed under the RTI Act. Aggrieved by Ext.P2 reply, the 2<sup>nd</sup> respondent preferred an appeal before the 2<sup>nd</sup> petitioner, Appellate Authority, which rejected the same vide Ext.P3, dated 22.06.2017.

2.2. Aggrieved by Ext.P3, the 2<sup>nd</sup> respondent preferred Ext.P4 appeal, dated 28.06.2017, before the 1<sup>st</sup> respondent. The first respondent issued Ext.P5 order, dated 28.07.2018, directing the PSC to make available all the documents sought for, without referring to any specific document or information to be supplied, and also ordered proceedings under Section 20(1) of the RTI Act. Ext.P5 order states that the denial of information under Sections 8(1)(e) and 8(1)(j) of the RTI Act was unsustainable, since the information sought related to disciplinary proceedings initiated against the applicant herself and consisted of materials which she would ordinarily be entitled to receive in the course of such proceedings. It was further observed that such records, when subjected to judicial scrutiny in disciplinary proceedings, are ordinarily



produced before courts and are not treated as confidential documents. Further reasoning was that the exemption relating to privacy under Section 8(1)(j) could not be invoked, as the information was sought by the very person to whom the alleged invasion of privacy pertained, and that a person whose integrity or reputation is affected through disciplinary proceedings has a right to know the contents of the inquiry and related materials.

2.3. The Commission also relied upon the proviso to Section 8(1)(j), holding that since such information could not be denied to the Parliament or Legislature, the same could not be denied to the applicant under the RTI Act. It is submitted by the petitioners that the file note sought by the delinquent employee contains the notings and opinions of various officers and Members of the Kerala Public Service Commission, and that the same does not constitute a public document to which a delinquent employee is entitled to claim access under the RTI Act. It is therefore contended that Ext.P5 is liable to be quashed.



3. In the counter affidavit filed by the 2<sup>nd</sup> respondent, Rani Wilfred (party respondent) submits that the disciplinary proceedings initiated against her while she was working as a Cashier in the Kerala Public Service Commission were wholly unwarranted and amounted to victimisation, particularly when she was on the verge of promotion as Section Officer. The allegation pertained to an alleged shortage in cash handling during the period from 2004 to 2006, which was subsequently remitted by her with interest. It is submitted that the then Chairman and Secretary of the KPSC, after considering the matter, had fully exonerated the respondent from all charges in the year 2014 in File No. SSI(1)162/14/GW. However, despite repeated requests dated 17.10.2016 and 20.01.2017, copies of the exoneration order, enquiry report and monitoring committee report were not furnished to her, compelling her to invoke the provisions of the Right to Information Act. The respondent contends that the information sought relates exclusively to the disciplinary proceedings initiated against her and



pertains to her own service records and enquiry files, and therefore cannot be denied by invoking Sections 8(1)(e) and 8(1)(j) of the RTI Act. It is further submitted that the disclosure of such information does not involve any fiduciary relationship or invasion of privacy, especially when the applicant herself seeks information affecting her integrity, dignity and service rights.

3.1. It is further submitted that the petitioners have deliberately withheld the information, despite the order passed by the State Information Commission directing disclosure under Section 20(1) of the RTI Act. Though the said order was passed on 28.07.2018, the writ petition challenging the same was filed only on 11.01.2019 after considerable delay, solely with an intention to continue the harassment and victimisation of the respondent. The allegations regarding shortage and misconduct, as stated in the writ petition, are specifically denied as false and incorrect. The respondent submits that once she stood exonerated from all liabilities in 2014, she became legally entitled to obtain copies of the



relevant enquiry records and orders. The denial of the same is arbitrary, illegal and contrary to the provisions of the RTI Act. It is therefore prayed that the writ petition be dismissed with costs and the petitioners be directed to produce the relevant files before this Hon'ble Court and implement the order of the Information Commission forthwith.

4. Heard Sri. P.C. Sasidharan, the learned counsel for the petitioners and Sri. M. Ajay, the learned Standing Counsel for the respondent and Smt. Surya Binoy, the learned Amicus Curiae.

5. The learned counsel for the petitioners contends that the materials relied on for initiating the disciplinary proceedings and the reason for imposing the punishment were all furnished, and the 2<sup>nd</sup> respondent (party respondent) has accepted the same. What is sought under RTI is the file note with reference to the review petition, which cannot be sought for under the Act. The disclosure of a confidential file related to disciplinary action initiated against a delinquent incumbent will hamper the fiduciary relationship



between the Commission and officers concerned. The request made by the 2<sup>nd</sup> respondent does not come within the purview of “information” which is defined under Section 2(f) of the Act, and does not relate to individual files, but to the general working of the Commission. Moreover, the information sought has no public interest and is purely a personal matter, and if disclosed, will adversely affect the functioning of the Commission. The petitioners rely on *Central Board of Secondary Education and Another v. Aditya Bandopadhyay and Others* [2011 KHC 4686] in which the Hon’ble Supreme Court held that while the right to information is a cherished and vital tool to promote transparency, accountability, and combat corruption, indiscriminate or impractical demands for disclosure of all information, unrelated to these objectives, would be counterproductive, as they may impair administrative efficiency, burden public authorities, and lead to misuse of the Act as a means of obstruction, intimidation, or diversion of resources from core public functions.



5.1. It is submitted that Section 20(1) of the RTI Act can be invoked only in cases where without any reasonable cause and persistently failed to receive an application for information or has not furnished information within the time specified under subsection (1) of Section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action against the Central Public Information Officer or the State Public Information Officer. *Mens rea* is an important ingredient for initiating proceedings under Section 20(1), and no such finding is there, and therefore 1<sup>st</sup> respondent ought not to have ordered the initiation of proceedings under the said section. The counsel also relied on *Kerala Public Service Commission v. State Information Commission, Kerala and Others* [2011 (2) KHC 87], *Kerala Public Service Commission and Others v. State Information Commission and*



***Another*** [2016 (1) KHC 533], ***Union Public Service Commission v. Angesh Kumar and Others*** [2018 KHC 6133], ***Chief Information Commissioner and Another v. State of Manipur and Another*** [2011 KHC 5099], ***Canara Bank Rep. by its Deputy Gen. Manager v. C.S. Shyam and Another*** [2017 (4) KHC 784 = MANU/SC/1068/2017], ***Central Board of Secondary Education and Another v. Aditya Bandopadhyay and Others*** [2011 KHC 4686] and ***Bihar Public Service Commission v. Saiyed Hussain Abbas Rizwi and Another*** [2012 KHC 4749 = MANU/SC/1103/2012].

6. Learned counsel for the 1<sup>st</sup> respondent, Kerala State Information Commission, submits that the definition of information under Section 2(f) in RTI Act means any material in form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.



Under Section 2(i), record is defined as it includes any document, manuscript and file; further under Section 2(j), right to information is defined as the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to inspection of work, documents, and records. Therefore, it is argued that a cumulative reading of all this shows that the file notes are included under the definition of information under the Act, and therefore, the information sought by the applicant is to be disclosed.

6.1. It is further argued that the information sought pertains to disciplinary proceedings initiated against the applicant herself and, therefore, cannot be treated as personal information exempt from disclosure under Section 8(1)(j) of the RTI Act on the ground of unwarranted invasion of privacy. It is contended that the plea of privacy is misconceived, since the information is sought by the very person to whom the proceedings relate, and no question of invasion of privacy arises in such circumstances. It is further submitted that



where disciplinary proceedings affect the integrity, reputation, or service rights of an individual, such a person is entitled to know the contents of the inquiry report and connected materials, and such entitlement cannot be defeated by invoking the exemption under Section 8(1)(j).

6.2. It is also contended that the information sought is of a nature which the applicant would ordinarily be entitled to receive in the course of the disciplinary proceedings themselves. It is contended that when disciplinary proceedings are subjected to judicial scrutiny, the connected records, including inquiry materials and note files, are ordinarily produced before courts as part of the regular records and are not treated as documents to be furnished exclusively in sealed cover. Therefore, the exemption under Section 8(1)(e) of the RTI Act cannot be invoked by contending that the materials are held in a fiduciary capacity.

6.3. It is further argued that the proviso to Section 8(1)(j) expressly provides that information which cannot be denied to



Parliament or a State Legislature cannot be denied to any person. According to the respondent, if the information sought is of a nature capable of being called for by a member in the Legislative Assembly, the concerned records would have to be produced before the House, and therefore, the applicant is equally entitled to obtain the same under the RTI Act.

7. By order dated 30.01.2026, Smt. Surya Binoy was appointed as an Amicus Curiae. Learned Counsel contends that information rights operate in two dimensions, namely, the right to access information held by public authorities and the right to protect personal information, and that the governing framework now comprises the Right to Information Act, 2005 and the Digital Personal Data Protection Act, 2023 (hereinafter DPDP Act). It is contended that Section 8(1)(j) of the RTI Act stood amended by Section 44(3) of the DPDP Act, 2023, which came into force on 30.11.2025, expanding the exemption relating to personal information. The validity of the said amendment and the Digital



Personal Data Protection Rules (hereinafter DPDP Rules) 2025 is presently under challenge before the Hon'ble Supreme Court.

7.1. The learned Amicus Curiae also points out that the DPDP Act introduces a comprehensive data protection framework founded on principles such as consent, purpose limitation and data security. It is further submitted that the scheme of the RTI Act, as reflected in its preamble, requires a balance between transparency and competing public interests such as efficient governance and confidentiality, and therefore Section 8(1)(j) must be construed purposively, adopting a balanced and pragmatic approach rather than a narrow or literal interpretation. It is also submitted that after the enactment of the DPDP Act, 2023, Section 8(1)(j) leans towards a broader protection of personal information. However, at the relevant time, the unamended provision applied, under which service and disciplinary records were treated as personal information exempt from disclosure unless a larger public interest justified disclosure.



7.2. Referring to *Jamia Millia Islamia v. Ikramuddin* [2012 KHC 2171 = MANU/DE/4461/2011] (Delhi High Court), it is contended that the term ‘person’ includes a juristic person; however, “personal information” does not relate to information pertaining to a public authority to whom the query for disclosure of information is directed. In *Orissa Power Generation Corporation Ltd. v. Orissa State Information Commission and Ors* [2024 KHC OnLine 2393 = MANU/OR/1552/2023], (Orissa High Court), the court held that the principle of proportionality is to apply when the right to privacy and the right to information are balanced against each other. In *The Muppathadam Service Co-operative Bank Ltd. v. The State Chief Information Commissioner and Ors* [2025 KHC OnLine 412 = MANU/KE/1628/2025] (Kerala High Court), a case where copies of the construction contract entered into by the society and minutes of the general body meeting were sought, the Division Bench of this court held that those documents do not fall within the exemption of Section 8. In *John George Nechupadom v. Kerala State Information*



**Commission and Ors** [2022 KHC OnLine 8035 = MANU/KE/3576/2022], (Kerala High Court), this court held that as the minutes of the board meeting after its approval are sent to the Registrar of Companies, it becomes a public document and cannot be personal information.

7.3. It is asserted that the question of disclosure under Section 8(1)(j) depends upon balancing privacy, confidentiality and public interest. In **Arun Luthra v. Chhattisgarh State Information Commission & Others** [2011 KHC 2574 = AIR 2011 Chh 128] (Chattisgarh High Court), and **Union of India v. R.S. Khan** [2011 KHC 2169 = AIR 2011 DELHI 50] (Delhi High Court), disclosure of file notings relating to official functions was permitted in appropriate cases, whereas in **Gulab Singh Rana v. The Central Public Information Officer, Indian Overseas Bank and Ors** [2022 KHC 2828 = MANU/TN/4282/2022] (Madras High Court), internal note files in disciplinary proceedings were held to be protected to preserve institutional functioning. In **Central Board of Secondary Education**



**and Another v. Aditya Bandopadhyay and Others** [2011 KHC 4686], information sought was pertaining to answer sheets of the applicant and their valuation, and held that Section 8(1)(e) cannot be invoked to deny supply of information to the beneficiary and the contention that the disclosure may affect the physical safety of the examiners within the meaning of Section 8(1)(g) was also to not avail. In **Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal** [MANU/SC/1561/2019 = 2019 (5) KHC 499], the Supreme Court recognised the need to balance transparency with protection of fiduciary and deliberative processes. Similarly, **Girish Ramchandra Deshpande v. Central Information Commissioner & Others** [(2013) 1 SCC 212], affirmed in **R.K. Jain v. Union of India and Ors.** [2013 KHC 4310 = MANU/SC/0291/1993], treated the performance of an employee/officer in an organisation is primarily a matter between the employee and the employer and normally those aspects are govern by the service rules and fall under the expression 'personal



information', absent larger public interest, while **Bihar Public Service Commission** (Supra), **Public Information Officer and Registrar v. Onkar Dattatray Kalmankar** [2025 KHC OnLine 7133] and **Ravi Prakash Soni v. Central Information Commission** [2024 KHC Online 5044] emphasise that disclosure ultimately depends upon the nature of the information, the existence of genuine public interest, and the impact of disclosure on protected institutional interests.

7.4. It is submitted that the proviso to Section 8(1)(j), relating to information that cannot be denied to Parliament or the Legislature, has received divergent interpretation from various High Courts. In **Canara Bank v. The Central Information Commission and Ors** [2007 (3) KHC 185 = MANU/KE/0346/2007] [Kerala High Court (DB)], **Treesa Irish v. Central Public Information Officer and Ors** [2010 (3) KHC 940 = MANU/KE/2875/2010], **Surupsingh Hrya Naik v. State of Maharashtra & Ors** [2007 KHC 4190 = MANU/MH/0170/2007] (Bombay High Court) and **University of Calcutta & Ors v. Pritam Rooj** [2009 KHC 6284 =



MANU/WB/0084/2009](Calcutta High Court), favoured disclosure adopted a broader view. However, the said approach in **Canara Bank v. The Central Information Commission and Ors** [2007 (3) KHC 185 = MANU/KE/0346/2007] [Kerala High Court (DB)] was subsequently reversed by the Hon'ble Supreme Court in **C.S. Shyam** (Supra), which held that the proviso does not override the protection available under Section 8(1)(j), and that service-related personal information cannot be disclosed absent a larger public interest.

7.5. Referring to **Vijay Prakash v. Union of India & Others** [2010 KHC 6477 = AIR 2010 DELHI 7] and **Shailesh Gandhi v. Central Information Commission, New Delhi and Others** [2015 KHC 3833], it is contended that the Courts adopted a narrower interpretation of the proviso to Section 8(1)(j), holding that it does not override privacy protections or permit unrestricted access to personal information merely because Parliament may, in a given case, call for such information. The powers of Parliament and Legislative Assemblies



under Article 105(3) are structured and regulated by procedural rules, relevance and legislative necessity, and questions concerning personal service matters or individual grievances are ordinarily not admissible. In *Chief Information Commissioner v. High Court of Gujarat & Ors* [2020 (2) KHC 322 = MANU/SC/0275/2020], it was further held that the Act recognises the need to protect the institutional interest to make optimum use of limited fiscal resources and preservation of sensitive information and in the absence of any inherent inconsistency between the provisions of the RTI Act and the other law an overriding effect of the RTI Act would not apply. The Manual of Office Procedure Other than Secretariat also indicates that Note Files, inter-departmental correspondence and internal deliberations form part of the decision-making process and are generally treated as confidential, particularly in disciplinary matters, with disclosure being limited to the operative decision and reasons communicated under the applicable service rules.



8. The question that arises for consideration is whether Ext.P5 order passed by the State Information Commission, directing disclosure of file notings and initiating proceedings under Section 20(1) of the Right to Information Act, 2005, is sustainable in law, particularly having regard to the scope of exemption under Section 8(1)(j) of the Act and the nature of the information sought by the 2<sup>nd</sup> respondent.

9. The information sought in the present case pertains to file notings, internal communications, inter-departmental opinions and deliberative materials forming part of disciplinary proceedings initiated against the 2<sup>nd</sup> respondent. Section 8(1)(j) of the RTI Act is extracted below:

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

.....

*(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:*

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

10. Before dealing with the provisions *per se*, it is pertinent to look into the preamble of the RTI Act, which recognises the need to balance the right to information with other public interests, including efficient operations of the Government and preservation of confidentiality of sensitive information. The provision of Section 8(1) is not merely a fetter on the right to information, and it shouldn't be construed literally, narrowly or strictly, but a purposive construction involving a balanced and pragmatic approach, balancing the two objects of the Act is to be adopted. The first component of the provision is personal information and the law relating to it has evolved through judicial pronouncements and



is now well settled that the expression “personal information” occurring in Section 8(1)(j), as it stood at the relevant time, takes within its fold not merely personal records, but also professional records, including service records, disciplinary proceedings, confidential assessments and employment-related materials. Personal information is thereby identified as such information which, if disclosed, would lead to unwarranted invasion of privacy, as it does not have any correlation with public information.

11. The Courts have also extended the term ‘personal information’ to persons other than individuals. The question boils down to whether the information is such that its disclosure amounts to unwarranted invasion into privacy that has no relation to the public activity or interest relevant to the institution. Further component of the provision is the ‘unwarranted invasion into privacy’, which focuses on the protection of human autonomy and dignity and which is also a fundamental right. It is relevant to note that in *Orissa Power Generation Corporation* (Supra), the applicant



requested details as regards his own performance, and the Orissa High Court found that this information was supplied to Odisha Mining Corporation Ltd. The information was not personal information pertaining to the applicant, and it involved disclosure of a private communication between two corporations, even though it may concern the applicant, and there was no public interest or activity involved. The court found that the principle of proportionality applies when the right to privacy and the right to information are balanced against each other. The third component of the provision is the requirement of a larger public interest, i.e., that the disclosure of the information is justified notwithstanding the claim of privacy or exemption. In *Subhash Chandra Agarwal (supra)*, it was held that the Court's duty is to balance one public interest against the other.

12. In *Girish Ramchandra Deshpande v. Central Information Commissioner & Others* (Supra), the Hon'ble Supreme Court categorically held that memos, show-cause notices, censure orders



and service-related materials constitute personal information, disclosure of which ordinarily bears no nexus to public activity and would amount to unwarranted invasion of privacy unless justified by demonstrable larger public interest. The said principle was reiterated in *R.K. Jain* (Supra) and *C.S. Shyam* (Supra) .

13. The scope of the right to information and the necessity of maintaining a balance between transparency and confidentiality was explained by the Supreme Court in *Central Board of Secondary Education and Another v. Aditya Bandopadhyay and Others* (Supra) wherein it was held that the RTI Act does not contemplate indiscriminate disclosure of every category of information held by a public authority and that competing interests such as confidentiality, fiduciary protection, privacy and efficient administration are equally protected under the statutory scheme. The request in the present case is not confined to the ultimate decision taken in the disciplinary proceedings or the reasons communicated to the employee, but extends to the entire Note File



containing internal deliberations, evaluative comments and decision-making processes within the department. Such materials stand on a fundamentally different footing from final orders communicated in discharge of statutory duties.

14. Though certain decisions, including *Arun Luthra* (Supra) and *Union of India v. R.S. Khan* (Supra), recognised that file notings connected with official action may in appropriate cases be disclosed, the said decisions do not lay down an inflexible proposition that all internal note files are liable to be disclosed irrespective of context, nature of proceedings or institutional consequences. If no merit is found in the apprehension that disclosure would pose potential danger to the officers concerned, file notings may be disclosed, except for the exempted information. On the contrary, in *Gulab Singh Rana* (Supra), *Indian Overseas Bank* (Supra), the petitioner sought inter alia internal documents containing the opinions/views of his disciplinary authority on sanctioning his prosecution by the CBI. Exemption was sought



under Section 8(1)(d)(g) and (h) of the Act, and it was the petitioner's case that at the relevant time, the investigation was already complete. The Court held that if a copy of the opinion and views is supplied, it will create unnecessary hindrance for the peaceful investigation, interrogation, and departmental disciplinary proceedings/criminal proceedings.

15. The doctrine of candour recognises the need for protecting a certain class of documents as they concern decision-making at the highest level of government, and only complete freedom from public gaze will enable freedom of expression and candour amongst government functionaries. This was recognised by the Constitution Bench in *Subhash Chandra Agarwal (supra)*, in which it was observed that candour, frankness and confidentiality, though integral to the common genus, i.e. efficient governmental functioning, *per se*, are not conclusive but should be kept in view in weighing the balancing act. Its weight will vary according to the nature of proceedings in which disclosure is sought, the level at



which the matter was considered, the subject matter of consideration, the relevance of documents and the degree of likelihood that the document will be of importance in the litigation.

16. Given the above, when the request is tested against the essential components of the provision that may warrant disclosure, the present case does not satisfy any of them. The information sought pertains to internal disciplinary records constituting personal information, the disclosure of which has no relationship to any public activity or public interest, and would result in an unwarranted invasion of privacy. Further, no larger or overriding public interest has either been pleaded or established by the 2<sup>nd</sup> respondent so as to justify disclosure of the said information. Ext.P5, however, proceeds on the assumption that the entire note file is mechanically disclosable without undertaking any balancing exercise between transparency, privacy, confidentiality and institutional integrity. Such an approach is legally unsustainable. Even assuming the contention of the learned counsel for the



respondent that file notings fall within the definition of “information” under the RTI Act is correct, the disclosure of such information would nevertheless remain subject to the exemptions and procedural safeguards contemplated under Sections 8 and 11 of the Act.

17. The principal contention advanced by the 1<sup>st</sup> respondent (Kerala State Information Commission) in the Ext.P5 order and raised by the 2<sup>nd</sup> respondent (applicant) in the counter affidavit, is that the proviso to Section 8(1)(j) of the RTI Act states that information which cannot be denied to Parliament or the Legislature cannot be denied to any person. The scope and effect of the said proviso, however, have been the subject matter of divergent judicial interpretation. In **Canara Bank v. Central Information Commission** [MANU/KE/0357/2007] [Kerala High Court (SB)], this Court adopted an expansive interpretation of the proviso and held that information relating to transfers and postings of employees, being matters capable to place before Parliament or the



Legislature, could not ordinarily be denied under Section 8(1)(j). The reasoning adopted therein effectively elevated the proviso above the substantive exemption and considerably diluted the protection afforded to personal information under Section 8(1)(j).

18. In *Treesa Irish* (Supra), the question was whether a valued answer sheet of an examination returned to a public authority by the examiner is exempt from disclosure. In Para 22, the Court said that the proviso "takes the sheen out of the main section". It was stated: "it does not require much racking of the brains to conclude that if a question is raised in the Parliament or the State Legislature regarding any irregularity or corruption in the valuation of the answer papers in this case, then certainly the answer papers cannot be denied to the parliament and the State Legislature and therefore the respondents cannot deny the information to the petitioner as well, claiming exemption under Section 8(1)(j)." The Court thus extended the proviso to the facts before it on the premise that if the fairness of a public examination is called into question, the



parliament or the legislature would have had the authority to seek such information.

19. Likewise, in ***Surupsingh*** (Supra), the Bombay High Court held that even confidential medical records maintained in a government hospital could be disclosed on the premise that public institutions remain accountable to the Parliament and Legislature. The said line of reasoning was followed in ***Pritam Rooj*** (Supra) wherein the Calcutta High Court considered the question whether an examiner can seek inspection of his answer scripts under the RTI Act and, after noting the right to information as a facet of the right to freedom and speech of expression, directed the access to information.

20. However, the interpretation of the proviso of Section 8(1) (j) was considered in ***Vijay Prakash v. Union of India*** [2010 KHC 6477], in which the Delhi High Court expressly disagreed with the reasoning in ***Surupsingh Harya Naik*** (supra) and held that undue, even overwhelming defence to parliamentary privilege in seeking



information cannot be accepted. It was stated that proviso has to be only as confined to what it enacts, to the class of information that Parliament can ordinarily seek; if it were held that all information relating to all public servants, even private information, can be accessed by Parliament, Section 8(1)(j) would be devoid of any substance, because the provision makes no distinction between public and private information. Moreover, no law enables Parliament to demand such information, and it has to be necessarily in the context of some matter or investigation.

21. The legal position thereafter stood settled by the Supreme Court in *C.S. Shyam* (Supra), which reversed the earlier Division Bench judgment of the Kerala High Court in *Canara Bank v. Central Information Commission and Ors* (Supra), which affirmed the Single Bench judgment in *Canara Bank v. Central Information Commission and Ors* (MANU/KE/0357/2007). The question considered before the Kerala High Court by the Single Bench was whether information relating to the transfer and posting of clerical staff and other



service particulars of employees could be denied under Section 8(1)(j) of the RTI Act. The Kerala High Court held that such information could not be denied and observed that “by no stretch of imagination can it be held that the information requested for by the 2<sup>nd</sup> respondent are information which can be denied to the Parliament and a State Legislature” and further that the proviso to Section 8(1)(j) “effectively nullifies the impact of the main provision to a great extent.”

22. However, the Hon’ble Supreme Court reversed the said view, holding that “the information sought by respondent No.1 of individual employees working in the Bank was personal in nature” and was therefore “exempted from being disclosed under Section 8(1)(j) of the Act”. Relying upon *Girish Ramchandra Deshpande v. Central Information Commissioner & Others* (supra) and *R.K. Jain* (Supra), the Supreme Court held that “the performance of an employee/officer in an organisation is primarily a matter between the employee and the employer” and that such matters “fall under



the expression ‘personal information’, the disclosure of which has no relationship to any public activity or public interest”, disclosure of which “would cause unwarranted invasion of privacy of that individual.” The Court further held that “neither respondent No.1 disclosed any public interest much less larger public interest involved in seeking such information” and nor was any finding recorded regarding the involvement of any larger public interest, and accordingly set aside the judgment of the High Court.

23. Apart from the above, the Manual of Office Procedure Other than Secretariat (hereinafter 'MOP') defines Current File, Note and Note File.<sup>26</sup> Chapter VII of the MOP deals with 'Noting'. Rule 49 of Chapter VII of the Manual of Office Procedure states that the aim of a note is to present, in the most intelligible, condensed and convenient form, the facts of the case, including, where necessary, its past history, points for decision, useful precedents and provisions of law, while Rule 52 provides that the note file shall be maintained separately from the current file. Rule 72 further



provides that though the purport of the order and the text having immediate bearing on the petitioner's representation may be communicated, "the full text of the order should never be communicated, much less the whole correspondence embodied in the proceedings". Rule 92(iii) also recognises that matters relating to individual officers may, depending on the circumstances, require confidential treatment. The said framework indicates that internal note files and deliberative correspondence are treated distinctly from the final decision communicated to the affected party.

24. The powers of Parliament and Legislative Assemblies to call for information are themselves circumscribed by constitutional practice, procedural rules and limitations relating to relevance, confidentiality and public importance. By virtue of Article 105(3) of the Constitution of India, Parliament possesses the privileges of the House of Commons, including the power of Parliamentary Committees to "send for persons, papers and records". Among its privileges, the parliament has the following powers in respect of



receipt of information: (a) right to receive immediate information on the arrest, detention, conviction and imprisonment of its members; (b) all parliamentary committees are empowered to send for persons, papers, and records relevant to the purpose of enquiry by a committee.

25. However, the exercise of such power is regulated by the Rules of Procedure and Conduct of Business in the Lok Sabha (LS Rules of Procedure) and the Directions issued by the Speaker of the Lok Sabha. Rule 269 limits the power of the House to summon witnesses or direct production of documents only insofar as they are required for the purposes of the Committee, while Rule 270 confines the power to call for reports and records to matters relevant to the enquiry. The Rules further recognise confidentiality and public interest limitations, including situations where disclosure may prejudice the safety or interests of the State. Even the Speaker's Directions contemplate that evidence may be treated as confidential and that disputes regarding disclosure and relevance



are to be resolved contextually between the concerned Department and the Committee. The Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly contain provisions that are *pari materia* to the above on the powers of the Committee of the Assembly to call for information.

26. Questions that can be raised on the floor of the House are only to the extent that they are within the special cognisance of the Minister concerned. Rule 41 of the LS Rules of Procedure lays down the parameters of the admissibility of a question. Rule 43(1) states that the Speaker shall decide whether a question, or a part thereof, is or is not admissible. While admitting the questions, ordinarily, names of the individuals are omitted, and if they are officials, their designation is given so as to render the question intelligible. In practice, questions relating entirely to personal matters are not admissible. Questions relating to comparative figures of dismissal, removal, reduction in rank, etc. of SC/ST officers in Central and State Government for the last 10 years were held to be inadmissible.



Direction 13 of the Directions of the Chairman of Rajya Sabha states that questions which relate to matters of day-to-day administration of Government employees, like their service conditions, postings, transfers, TA/DA, etc., or questions which tend to further the interest of an individual or a few individuals or private companies are not admissible. Government can withhold information in public interest, and the Government is the sole judge as to what constitutes a public interest in a given circumstance (Subash C Kashyap Volume II Parliamentary Procedure). Therefore, the finding in Ext.P5 that the information would have been supplied to the House if a question on the floor was raised was rendered without ascertaining if such a question would have been allowed to be raised in the first place.

27. Thereby, it has to be held that the proviso of Section 8(1)(j) does not confer an unrestricted right to seek every information, nor does it mandate disclosure in all cases, as such an interpretation would render the protections and exemptions contemplated under



Sections 8 and 11 of the Act otiose. It is a settled principle of statutory interpretation that a proviso cannot be read in a way which nullifies the provision to which it is a proviso, unless such an intention is manifest. Moreover, it is also a settled law that if the substantive provision is clear on fair interpretation, the language in the proviso cannot be used to defeat the basic intent expressed in the said provision.

28. Consequently, the very foundation of the respondent's contention in the present case, namely, that the information sought would have been supplied to the Legislature and therefore cannot be denied under the Act, cannot be sustained for the aforementioned reasons. It is also relevant to note that, by virtue of the amendments introduced through the DPDP Act, 2023, the said proviso itself has since been omitted, albeit prospectively.

29. The amendment introduced through the DPDP Act, 2023, which came into force on 30.11.2025, Section 8(1)(j) now stands substantially widened so as to exempt "information which relates to



personal information”, thereby materially curtailing the earlier disclosure framework founded upon the balancing of public interest. Though the said amendment operates prospectively and does not directly govern the present dispute, the legislative development unmistakably demonstrates the statutory shift towards greater protection of personal and service-related information. Thus, even independently of its prospective operation, the very basis upon which expansive arguments founded on the proviso to Section 8(1)(j) were earlier advanced stands substantially diluted under the amended provision as well.

30. Insofar as the direction under Section 20(1) is concerned, penal consequences can arise only upon a clear finding of malafide denial, unreasonable refusal, or deliberate obstruction in furnishing information. The stand adopted by the petitioners/PSC was founded on a plausible and legally sustainable interpretation of Section 8(1)(j), supported by binding precedents recognising that service and disciplinary records constitute personal information unless



outweighed by demonstrable larger public interest. Though disclosure may in appropriate cases be warranted on grounds of overriding public interest, as noticed in *Onkar Dattatray Kalmankar* (Supra) and *Ravi Prakash Soni* (Supra), the existence of such public interest is necessarily case-specific and cannot be presumed. Therefore, the legal position under Section 8(1)(j) not being free from complexity or doubt, the stand taken by the petitioners cannot be characterised as malafide, contumacious, or deliberately obstructive so as to attract proceedings under Section 20(1) of the Act.

31. For the aforesaid reasons, I am of the firm view that Ext.P5 order, insofar as it directs indiscriminate disclosure of file notings and initiates proceedings under Section 20(1) of the Act, is contrary to the statutory framework, the settled principles governing protection of personal information, and the limits of the Commission's jurisdiction.

Accordingly, Ext. P5 is quashed. The writ petition is allowed.



This Court places on record its profound appreciation for the exemplary assistance rendered by the learned Amicus Curiae, Smt. Surya Binoy, whose incisive research, meticulous preparation and erudite submissions greatly aided the Court in adjudication of the issues involved.

Sd/-

**MOHAMMED NIAS C.P.  
JUDGE**

DMR/-



APPENDIX OF WP(C) NO. 493 OF 2019

**PETITIONERS' EXHIBITS**

**EXHIBIT P1** TRUE COPY OF THE REQUISITION DATED 15/4/2017 MADE BY THE 2ND RESPONDENT BEFORE THE 1ST PETITIONER.

**EXHIBIT P2** TRUE COPY OF THE REPLY DATED 9/5/2017 GIVEN TO THE 2ND RESPONDENT BY THE 1ST PETITIONER.

**EXHIBIT P3** TRUE COPY OF THE REPLY DATED 22/6/2017 ISSUED BY THE 2ND PETITIONER TO THE 2ND RESPONDENT.

**EXHIBIT P4** TRUE COPY OF THE APPEAL PETITION FILED BY THE 2ND RESPONDENT DATED 28/6/2017 BEFORE THE 1ST RESPONDENT.

**EXHIBIT P5** TRUE COPY OF THE ORDER DATED 28/7/2018 ISSUED BY THE 1ST RESPONDENT.