

Employee's Performance Is "Personal Information" Exempted U/S 8(1)(j) RTI Act: J&K&L High Court

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HIGH COURT OF JAMMU AND KASHMIR AND LADAKH AT JAMMU

TASHI RABSTAN; J., SINDHU SHARMA; J.

OWP No.849/2017 IA No.1/2017; 03.11.2022

Kendriya Vidyalaya Sangathan & others versus. Central Information Commission & another

Petitioners through: Mr. Rajnish Raina, Advocate

Tashi Rabstan – J

1. Petitioners have filed this petition seeking to quash the order/judgment dated 14.02.2017 passed by the Central Information Commission, New Delhi in CIC/C/A/2014/000289-SA, whereby, the Commission directed the Public Information Officer, Kendriya Vidyalaya Sangathan, petitioner No.3 herein, to furnish the complete and truthful information point-wise to Pushpa Devi, respondent No.2 herein, as sought by her under the Right to Information Act.

2. The instant writ petition came to be filed on 01.06.2017 and the matter was heard on 02.06.2017 on the question of admissibility of petition. Thereafter, on the said date, notice was also issued to the respondents. However, none appeared on behalf of respondent-Pushpa Devi. The matter was admitted to hearing on 08.09.2017 and post-admission notice was issued to the respondents. Since none appeared on behalf of respondent-Pushpa Devi even after issuance of post-admission notice, as such vide order dated 04.02.2022 the matter was directed to be proceeded *ex parte*. Accordingly, the matter was heard finally on 14.10.2022 in absence of respondent-Pushpa Devi and kept reserved for pronouncement of judgment.

3. The facts leading to filing of present petition are that respondent-Pushpa Devi filed two applications before the Public Information Officer, Kendriya Vidyalaya Sangathan, Gandhi Nagar, Jammu, petitioner No.3 herein, under the Right to Information Act seeking to provide copies of all the complaints lodged against one Mr. Vijay Kumar, Principal, Kendriya Vidyalaya, Chamba since the date of his joining. However, the Public Information Officer vide communication dated 01.03.2014 declined to provide the said information on the ground that the information sought for qualifies as *personal information* within the meaning of provisions of Section 8(1)(j) of the Act. Feeling aggrieved, respondent-Pushpa Devi filed an appeal before the Central Information Commission, which came to be allowed on 14.02.2017 with a direction to the Public Information Officer, petitioner No.3 herein, to furnish the complete and truthful information point-wise to respondent-Pushpa Devi as sought by her under the Right to Information Act. Hence, the present petition against the order of Central Information Commissioner.

4. Heard learned counsel appearing for the petitioners and perused the writ file.

5. The only question required to be determined in this petition is: whether or not the information sought for by the respondent, namely, Pushpa Devi under the Right to Information Act, 2005 qualifies as *personal information* within the meaning of provisions of Section 8(1)(j) of the Act.

6. It reveals that the respondent-Pushpa Devi sought to provide copies of all the complaints lodged against one Mr. Vijay Kumar, Principal, Kendriya Vidyalaya, Chamba since the date of his joining. After going through the file and the relevant clause of Right to Information Act, we are in agreement that the information sought for by the respondent-

Pushpa Devi falls under the expression *personal information* and the disclosure of which has no relationship to any public activity or public interest, rather it would cause unwarranted invasion of privacy of that individual. A similar question had arisen before the Apex Court in a case, titled as, *Girish Ramchandra Deshpande vs Central Information Commr.*, 2013 (1) SCC 212, and what was held by their Lordship in paragraphs 12 & 13 is reproduced hereunder:

“12. The petitioner herein sought for copies of all memos, show cause notices and censure/punishment awarded to the third respondent from his employer and also details viz. movable and immovable properties and also the details of his investments, lending and borrowing from Banks and other financial institutions. Further, he has also sought for the details of gifts stated to have accepted by the third respondent, his family members and friends and relatives at the marriage of his son. The information mostly sought for finds a place in the income tax returns of the third respondent. The question that has come up for consideration is whether the above-mentioned information sought for qualifies to be “personal information” as defined in clause (j) of Section 8(1) of the RTI Act.

13. We are in agreement with the CIC and the courts below that the details called for by the petitioner i.e. copies of all memos issued to the third respondent, show cause notices and orders of censure/punishment etc. are qualified to be personal information as defined in clause (j) of Section 8(1) of the RTI Act. The performance of an employee/officer 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.”

7. It seems the Central Information Commissioner has misinterpreted the judgment and has not taken the same in its right perspective. Since, the said judgment squarely falls to the facts of present case, as such the information sought for by the respondent, namely, Pushpa Devi under the Right to Information Act, 2005 qualifies as *personal information* within the meaning of provisions of Section 8(1)(j) of the Act.

8. Viewed thus, we find force in the petition. Accordingly, the same is allowed and the order/judgment dated 14.02.2017 passed by the Central Information Commission, New Delhi in CIC/C/A/2014/000289-SA is set aside.

Connected IA, accordingly, stands disposed of.

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