

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

+ LPA 34/2015 & C.M.No.1287/2015

Reserved on: 09.04.2015

Pronounced on: 17.04.2015

SUBHASH CHANDRA AGARWAL

..... Petitioner

Through: Mr. Prashant Bhushan with
Mr. Syed Musaib & Mr. Pranav Sachdeva,
Advs.

Versus

THE REGISTRAR, SUPREME COURT
OF INDIA & ORS

..... Respondents

Through: Mr. Sidharth Luthra, Sr. Adv. with
Mr. Jasmeet Singh, CGSC, Mr. Simon
Benjamin, Mr. Satyam Thareja &
Mr. Vasundara Nagrath, Adv. for R-1.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE DEEPA SHARMA

Ms.G.ROHINI, CJ

1. This appeal is preferred against the order dated 19.12.2014 whereunder the learned Single Judge allowed W.P.(C) No.1842/2012 filed by the respondent herein and set aside the order dated 01.02.2012 passed by the Central Information Commissioner (CIC) under the Right to Information Act, 2005 (for short 'RTI Act').

2. The facts in brief are as under:-

3. The appellant herein filed an application under the RTI Act with the Central Public Information Officer, Department of Justice, Government of India seeking the information relating to the details of the

medical facilities availed by the individual judges and their family members of the Supreme Court in last three years including the information relating to expenses on private treatment in India or abroad. The CPIO, to whom the said application was transferred under Section 6(3) of the Act rejected the same by order dated 02.02.2011 on the ground that it is an exempted information under Section 8(1)(j) of the Act. The appeal preferred by the appellant herein was dismissed by the First Appellate Authority by order dated 07.03.2011. However, the further appeal to the CIC was allowed and by order dated 03.08.2011, the CIC directed the CPIO to provide the total amount of medical expenses of individual judges reimbursed by the Supreme Court during the last three years both in India and abroad wherever applicable. There was also a direction that the CPIO shall bring to the notice of the competent authority in the Supreme Court and ensure that arrangements are made in future for maintaining the information as expected in Section 4(1)(a) of the RTI Act. In pursuance thereof, by letter dated 30.08.2011, the CPIO while furnishing the actual total expenditure for the years 2007-08, 2008-09 and 2009-10, informed the appellant herein that the judge-wise information regarding actual total medical expenditure is not required to be maintained and is not maintained. Contending that the information furnished by CPIO is not in compliance with the order dated 03.08.2011, the appellant herein had again approached the CIC and thereupon by order dated 01.02.2012 the CIC reiterated its directions dated 03.08.2011.

4. Aggrieved by the said order, the appellant herein filed W.P.(C) No.1842/2012. By the order under appeal, the learned Single Judge allowed the writ petition holding that the order passed by CIC

purportedly in exercise of power under Section 19(8)(a)(iv) of the Act is erroneous. While taking note of the fact that the information sought by the respondent/appellant herein was with regard to expenses incurred on medical facilities of judges retired as well as serving and that the said information is personal information which is exempted from disclosure under Section 8(1)(j) of the RTI Act and that the medical bills would indicate the treatment and/or medicines required by individuals and the same would clearly be an invasion of the privacy, the learned Single Judge held that the question of issuing any directions under Section 19(8)(a)(iv) of the Act to facilitate access to such information does not arise.

5. Assailing the said order, Sh.Prashant Bhushan the learned Counsel appearing for the appellant vehemently contended that the information pertaining to expenditure of public money on a public servant is not exempted under Section 8(1)(j) of the RTI Act. It is submitted by the learned counsel that only the information which relates to personal information which has no relation to any public activity or interest or which would cause unwarranted invasion of privacy of the individual is exempt from disclosure under Section 8(1)(j) and that the same is not attracted to the case on hand since the medical bills of the judges are reimbursed from the public money. Placing reliance upon the decisions in *State of UP Vs. Raj Narain*, **AIR 1975 SC 865**, *S.P.Gupta Vs. President of India & Ors.*, **AIR 1982 SC 149** and *Union of India Vs. Association for Democratic Reforms*, **AIR 2002 SC 2112** it is further contended by the learned counsel that the object and purpose of the RTI Act being promoting transparency and accountability in spending the

public money to strengthen the core constitutional values of a democratic republic, the information sought by the appellant relating to reimbursement of medical bills of the individual judges, under no circumstances, can be termed as exempted information under Section 8(1)(j) of the Act.

6. On the other hand, it is submitted by Sh.Siddharth Luthra, the learned Senior Advocate appearing for the respondents No.1 & 2 that the information sought by the appellant would cause unwarranted invasion of privacy of the individual judges and, therefore, the learned Single Judge has rightly held that Section 8(1)(j) is attracted. To substantiate his submission, the learned Senior Counsel relied upon *Central Board of Secondary Education & Anr. Vs. Aditya Bandopadhyay & Ors.* 2011 (8) SCC 497 and *Girish Ramchandra Deshpande Vs. Central Information Commissioner & Ors.* (2013) 1 SCC 212.

7. We have given our thoughtful consideration to the rival submissions made by the parties. It is no doubt true that the RTI Act, 2005 is aimed at providing access to the citizens to information under the control of public authorities in order to promote transparency and accountability in the working of the every public authority. However, as held in the case of *Aditya Bandopadhyay & Ors. (Supra)* the RTI Act contains certain safeguards by providing exemption from disclosure of certain information including the information which would cause unwarranted invasion of the privacy of the individual except where the larger public interest justifies the disclosure of such information.

8. In the case on hand, the CPIO by his letter dated 30.08.2011 has admittedly furnished the amount that has been reimbursed on medical

treatment from the budget grant of each year for the period from 2007 to 2010 making it clear that during the said period no reimbursement for medical treatment abroad was made. It was also specifically mentioned by the CPIO that the judge-wise information was not maintained as the same was not required to be maintained.

9. It is no doubt true that Section 19(8)(a)(iv) empowers the appellate authority to require the public authority to make necessary changes to its practices in relation to the maintenance, management and destruction of record for the purpose of securing compliance with the provisions of the RTI Act. However, as rightly held by the learned Single Judge the said power cannot be invoked to direct creation of information but the same can be only with regard to the existing information.

10. The information sought by the appellant includes the details of the medical facilities availed by the individual judges. The same being personal information, we are of the view that providing such information would undoubtedly amount to invasion of the privacy. We have also taken note of the fact that it was conceded before the learned Single Judge by the learned counsel for the appellant herein that no larger public interest is involved in seeking the details of the medical facilities availed by the individual judges. It may also be mentioned that the total expenditure incurred for the medical treatment of the judges for the period in question was already furnished by the CPIO by his letter dated 30.08.2011 and it is not the case of the appellant that the said expenditure is excessive or exorbitant. That being so, we are unable to understand how the public interest requires disclosure of the details of the medical facilities availed by the individual judges. In the absence of any such

larger public interest, no direction whatsoever can be issued under Section 19(8)(a)(iv) of the Act by the appellate authorities. Therefore on that ground also the order passed by the CIC dated 01.02.2012 is unsustainable and the same has rightly been set aside by the learned Single Judge.

11. For the aforesaid reasons, the appeal is devoid of any merits and the same is accordingly dismissed. No order as to costs.

CHIEF JUSTICE

DEEPA SHARMA, J

APRIL 17, 2015

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