

OFFICE OF THE REGISTRAR GENERAL, GAUHATI HIGH COURT,
MAHATMA GANDHI ROAD, PANBAZAR, GUWAHATI
(Appellate Authority)

RTI APPEAL NO.01/2022-23

APPELLANT :- Sri. Dulal Bora,
House No. 118,
Rajib Gandhi Path,
Kainadhara Tiniali,
Khanapara, Guwahati – 781022.

RESPONDENT :- Registrar (Judicial) & PIO,
Gauhati High Court

DATE OF APPEAL :- 09.06.2022

DATE OF HEARING :- 30.06.2022

DATE OF ORDER :- 08.07.2022

O R D E R

The Appellant, Sri. Dulal Bora preferred this Appeal u/s 19 (1) of the Right to Information Act, 2005 (hereinafter RTI Act), being aggrieved with the response received from the Public Information Officer (hereinafter PIO).

The brief facts leading to the instant Appeal is that the Appellant/Applicant on 21.03.2022 (received on 23.03.2022) submitted an RTI application before the PIO of the Gauhati High Court, Guwahati, seeking

 21/7/22

information in respect of one Sri. Biswajit Baruah (infact Sri. Biswadeep Baruah), Sub-Divisional Judicial Magistrate – I, Kamrup (M). The PIO in his reply on 07.04.2022 informed the Appellant/ Applicant that information in respect of Query Nos. 1, 2, 3, 4 and 5 are “third party personal information” as per Section 11 of the RTI Act and the concerned party after notice objected to furnish those information, and moreover, the Applicant failed to show any “larger public interest” in this regard for which the above information cannot be furnished. In respect of Query Nos. 6 and 7, the PIO informed that the sought for information are not maintained by this Registry, however the Applicant may obtain the same by following prescribed rules for obtaining certified copies from the concerned Courts.

The Appellant/ Applicant being aggrieved, preferred this Appeal mainly on the sole ground that he is dissatisfied with the response of the PIO, for not providing the information as sought for.

I have personally heard the Appellant/ Applicant as well as the PIO, I have carefully perused the entire record and the relevant rules.

The Appellant/ Applicant during hearing submitted that through the RTI application, he sought information of Sri. Biswajit Baruah, Sub-Divisional Judicial Magistrate – I, Kamrup (M), regarding his entry in service under the Gauhati High Court, Application for appointment, Copies of Transfer and Promotion orders, Orders passed by the Officer in all stations of his service, Certified copies of all Judgments/ Orders passed by the Officer since his joining as Sub-Divisional Judicial Magistrate – I till 21.03.2022. The Appellant/ Applicant submitted that he has not been



furnished with this information. Hence, he is aggrieved and preferred this Appeal.

Learned PIO submitted that information relating to Query Nos.1 to 5 are personal information and exempted u/s 8(1)(j) of the RTI Act. He submitted that this information relates to third person (SDJM - I), and he issued notice u/s 11 of the RTI Act to Sri Baruah (SDJM – I). Sri Baruah replied that all information sought for are personal and no public interest involved. Moreover, the Appellant/ Applicant is facing 2 (two) Criminal cases in his Court and 14 numbers of cases are pending against him in various Courts under the establishment of the Chief Judicial Magistrate, Kamrup (M). The application has been filed with ulterior motive of harassing and pressurising the Judicial Officer. Learned PIO further submitted that vide Query Nos. 6 and 7, the Appellant/ Applicant prayed for certified copies of all Judgments/ Orders, passed by Sri Baruah since joining as Sub-Divisional Judicial Magistrate – I, which he can obtain as per rules by applying for the same before the concerned Court. Learned PIO in his support, submitted following case laws:

- i. Girish Ramchandra Deshpande -v/s- Central Information Commissioner reported in (2013) 1 SCC 212 and
- ii. W.P (C) (PIL) No.05/2022 decided by the High Court of Tripura.

I have given my due consideration on the submissions made by the parties.

By his application of RTI, the Appellant/ Applicant prayed for the following information:



1. Furnishing of photocopy of the job application submitted to Gauhati High Court by Sri Biswajit Baruah, serving as SDJM(I) in the Court of Chief Judicial Magistrate, Kamrup(M) District, and also furnish certified copy of Receipt Number of DIPR.
2. Furnishing of certified copy of the appointment letter issued by Gauhati High Court to Sri Biswajit Baruah, serving as SDJM(I) in the Court of Chief Judicial Magistrate, Kamrup(M) District.
3. Furnishing of certified copies of the records bearing the date of joining and the place of posting of Sri Biswajit Baruah, serving as SDJM(I) in the Court of Chief Judicial Magistrate, Kamrup(M) District.
4. Furnishing of certified copies of the orders of promotions and transfer of Sri Biswajit Baruah, from the date of his joining in services till date (21-03-2022) as SDJM(I) in Kamrup (M).
5. Furnishing of certified copies of records with regard to the service of Sri Biswajit Baruah, who is currently serving as SDJM(I) in the Court of Chief Judicial Magistrate, Kamrup(M) District, as JMFC in various courts of Assam.
6. Furnishing of certified copies of the cases in which Sri Biswajit Baruah passed judgements in his capacity as JMFC at various places of Assam.
7. Furnishing of certified copies of the cases in which said Sri Biswajit Baruah passed judgements from the time he joined as SDJM(I) till date (21-03-2022).

Section 8(1)(j) of the RTI Act reads as follows:



Handwritten signature in black ink, appearing to be 'Sri Biswajit Baruah'.

"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."

Section 11 of the act deals with Third Party Information.

Section 11 (1) reads as follows:

"11. Third party information.—(1) Where a Central Public Information Officer or a State Public Information Officer, as the case may be, intends to disclose any information or record, or part thereof on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the Central Public Information Officer or State Public Information Officer, as the case may be, intends to disclose the information or record, or part



thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information: Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party."

In this case, the Third Party, Sub-Divisional Judicial Magistrate – I, upon receipt of notice u/s 11 of the Act, replied that the information sought for are personal and have no public interest. Moreover, the Applicant is facing trial in his Court in GR No.8005/2012 and PRC No. 665/2020. Sub-Divisional Judicial Magistrate – I also replied that total 14 nos. of cases are pending against the Appellant/ Applicant in Chief Judicial Magistrate Court Complex under various Judicial Officers and the Appellant/ Applicant filed application only to harass and pressurise the Officers.

The fact that the Appellant/ Applicant is facing trial in 2 (two) cases in the Court of the Third party (SDJM–I) has not been disputed by the Appellant/ Applicant. He also has not disputed regarding the number of pending cases.

If we conjointly read Section 11 (1) of the Act with section 8(1)(j) of the Act, we find that Third party information which are personal in nature and which does not disclose larger public interest are exempted from disclosure. The person demanding disclosure of the personal



information must show that disclosure of such personal information is in the larger interest of the public and it outweighs the harm caused to the third person by such disclosure.

The Hon'ble Supreme Court in paragraph 12 of *Girish Ramchandra Deshpande -v/s- Central Information Commissioner*, inter-alia observed as follows:

"..... Of course, in a given case, if the Central Public Information Officer or the State Public Information Officer or 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."

In W.P (C) (PIL) No. 5/2022 the Petitioner challenged the constitutionality and validity of Section 11 of the Act before the Tripura High Court. The division bench of Tripura High Court while discussing the petition in paragraph 6 observed as follows:

"Where a statute confers a right; which in the instant case is the right of a third party to refuse furnishing of private or confidential information, same cannot be wiped out in a manner except as set out in that statute. In order to outweigh the privacy/confidentiality of a third party; presumptions and baseless allegations alone are not sufficient, and the seeker of information must set out compelling grounds and circumstances rooted in facts to warrant infringement of privacy/confidentiality. Provisions of RTI cannot be read down to make privacy of individuals amenable to fishing inquiry and



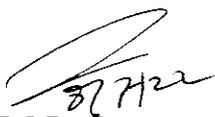
a fine balance is required to be maintained between public-interest and privacy/confidentiality of private party."

In the instant case, in view of the above facts and observations it can be safely held that the information sought by the Appellant / Applicant in respect of Query nos. 1 to 5 are personal information having no public interest. The applicant failed to show that disclosure of the above information is in the larger public interest. In respect of Query no. 6 and 7, one can refer to Clause 5 (e) of the Gauhati High Court (Right to Information) Rules, 2008, which states that any information which can be obtained by adhering to the prescribed procedure and payment of fees as per Gauhati High Court Rules, 2007 and Gauhati High Court Civil/Criminal Rules, as the case maybe, need not be furnished under the Act.

In view of the above discussions, I am of the considered view that the learned PIO has rightly furnished the reply to the RTI application of the Appellant and the same requires no interference. Accordingly, the instant appeal is dismissed.

The Appellant/ Applicant has the right to prefer appeal before the competent authority against this order. Inform accordingly.

Given under my hand and seal on this 8th day of July, 2022.


REGISTRAR GENERAL
Gauhati High Court
Guwahati.