

**OFFICE OF THE REGISTRAR GENERAL, GAUHATI HIGH COURT,**  
**MAHATMA GANDHI ROAD, PANBAZAR, GUWAHATI**

**RTI APPEAL NO.- 03/2021-2022**

APPELLANT :- Sri Naba Kumar Das  
S/o. Jagadish Chandra Das  
House No. 527, Ganeshguri Chariali,  
G.S. Road, Guwahati, Assam.

RESPONDENT :- Public Information Officer-cum-Registrar (Judicial),  
Gauhati High Court, Guwahati.

Date of Appeal :- 24.01.2022 (received on 03.02.2022)  
(Appeal rectified on 17.02.2022)

Date of Hearing :- 07.03.2022

Date of Order :- 15.03.2022

**O R D E R**

1. The instant RTI appeal has been made under Section 19 (1) of the Right to Information Act, 2005 following rejection of RTI application dated 14.12.2021 by the Public Information Officer (PIO) vide order dated 05.01.2022.

2. The brief facts leading to the institution of this appeal is that the appellant, Naba Kr. Das on 14.12.2021 while filing the prayer for information under the RTI Act submitted that in the early part of March, 2020, a complaint was filed by his father, Mr. Jagadish Chandra Das, 86 years old against one Mr. Rana Dutta, former Civil Judge No. 1, Kamrup (M) for passing ex-parte judgment and decree against him in Title Suit No. 135/2018 by flouting all legal norms which resulted in demolition of his house built in 1972 and occupation of his land purchased in 1968 in Ganeshguri area.

3. In the RTI application, the appellant has prayed for the following information:-

(i) Regarding the present status of the complaint;

(ii) Is there any statutory time frame to dispose of the complaint?; and

  
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(iii) What action(s) have been taken against the concerned official, if any, when, and if not, why?

4. In response to the RTI appeal, the PIO-cum-Registrar (Judicial) vide order dated 05.01.2022 informed the appellant that the information asked for cannot be supplied as it would cause unwarranted invasion of the privacy of the individual. The PIO further informed the appellant that he may file an appeal under Section 19 of the Right to Information Act, 2005 to the appellate authority within 30 (thirty) days from the date of issuance of this order.

5. The appellant being dissatisfied with the order dated 05.01.2022 of the PIO for not supplying the information, has preferred this appeal.

6. In the Memo of Appeal, the appellant requested to provide him the information of the status as to the above referred complaint filed in March, 2020 and to share information regarding any action taken against the officer in respect of the above complaint.

7. The appellant was heard-in-person along with the PIO.

8. During the course of hearing, the appellant submitted that his father, Jagadish Chandra Das was made a party in T.S. No. 135/2018 by the Court of the then Civil Judge No. 1, Kamrup (M), Guwahati, Mr. Rana Dutta and thereafter, passed ex-parte judgment and order against his father in that Title Suit by flouting all legal norms. He has further submitted that his father, Jagadish Chandra Das, thereafter, lodged a complaint before the Hon'ble High Court against the then Civil Judge No. 1, Kamrup (M), Guwahati, Mr. Rana Dutta and he (the appellant) has filed the RTI application to know about the status of the complaint and the action, if any, taken on the basis of that complaint against Mr. Rana Dutta. He has submitted that his RTI application was rejected by the PIO without any basis.

9. During the course of hearing, the appellant has also submitted that the judgment and order passed by the former Civil Judge No. 1, Kamrup (M), Guwahati, Mr. Rana Dutta has already been set aside which shows that Sri Rana Dutta, former Civil Judge No. 1, Kamrup(M), Guwahati passed the judgment and order without following due course of law. The appellant accordingly prayed to furnish the information as prayed by him.

  
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- 10.** During the course of hearing, the learned PIO submitted that the appeal is not maintainable under Section 19 of the RTI Act, 2005 and that the appellant is not the aggrieved person and the Memo of Appeal is nothing but a 2<sup>nd</sup> application seeking information. The PIO also submitted that in respect of the complaint against Judicial Officers, there is an in-house mechanism to dispose of that complaint.
- 11.** It is submitted that if the result of such complaint is disclosed, it may cause unwarranted invasion of the privacy of the said official and it does not serve the cause of larger public interest and as such, such information is exempted under Section 8(j) of the RTI Act, 2005. The PIO submitted that for such reasons, the information sought for by the appellant cannot be disclosed.
- 12.** During the course of hearing, the PIO also submitted that Judicial Officers are protected under the Judges Protection Act for acts done by such officers during the course of his normal duties.
- 13.** I have carefully considered the submissions made by the appellant as well as by the learned PIO. I have also carefully perused the relevant provisions of the RTI Act as well as the RTI Rules framed by the Gauhati High Court known as the Gauhati High Court (Right to Information) Rules, 2008.
- 14.** Section 8 of the RTI Act deals with the Information which are exempted from disclosure.
- 15.** Section 8(g) of the said RTI Act reads as follows:-  
*"(g) Information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;"*
- 16.** Section 8(j) of the said RTI Act reads as follows:-  
*"(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."*

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17. Rule 5 of the Gauhati High Court (Right to Information) Rules, 2008 also deals with information which are exempted from disclosure.

18. Rule 5 of the said Rules states that any information specified under Section 8 of the Act shall not be disclosed and made available and in particular, the following information shall not be disclosed:-

*"(a) That, which is not in the public domain or does not relate to juridical functions and duties of the Court and matters incidental and ancillary thereto.*

*(b) That, which has been expressly forbidden to be published by the Court or the disclosure whereof may constitute Contempt of Court; or any information which involves commercial confidence, trade secrets or intellectual property, the disclosure whereof, would harm the competitive position of a third party, unless the Chief Justice is satisfied that larger public interest warrants the disclosure of such information;*

*(c) That, which would impede the process of investigation or apprehension or prosecution of offenders; or information which relates to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Public Information Officer or the Assistant 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.*

*(d) That, affecting the confidentiality of any examination conducted by the Gauhati High Court or administration of the affairs thereof. The question of confidentiality shall be decided by the Chief Justice whose decision shall be final.*

*(e) That can be obtained under the provisions of the Gauhati High Court Rules, 2007 in case of the High Court and its Permanent Benches and under Gauhati High Court Civil/Criminal Rules for the subordinate Courts. Such information may be obtained by adhering to the prescribed procedure and payment of fees prescribed in the Gauhati High Court Rules, 2007 and Gauhati High Court Civil/Criminal Rules as the case may be. "*

  
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**19.** If we carefully read Section 8 (j) of the 2005 Act along with the Rule 5 (c) of the said 2008 Rules together, we find that any information which is personal or 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 shall not be disclosed unless the PIO or the Assistant PIO or the appellate authority, as the case may be, is satisfied that the larger public interest justifies such disclosure.

**20.** In the present case in hand, from the available materials, we find that the appellant's father was made a party in a Title Suit before the then Civil Judge No. 1, Kamrup (M), Guwahati, Sri Rana Dutta and in that suit, decree/order was passed against the father of the appellant ex-parte resulting demolition of the house of the father of the appellant.

**21.** During the course of hearing, we have also found that the father of the appellant invoked other remedial measures available against the said ex-parte judgement and order and the said ex-parte judgment and order has already been set aside. In every judicial proceeding, the concerned officer has to pass judicial order during the course of the proceeding. The said order may not pass the test of judicial review of the higher judicial authority. However, such order passed by the judicial officer will not attract disciplinary action on the administrative side unless the said judgment and order was passed by the officer under extraneous circumstances.

**22.** In the present case, we have found that the father of the appellant has already exercised the other judicial remedy available against the said ex-parte judgment and order. Judicial officers perform a solemn duty under the Constitution and they are protected under the Judges Protection Act, unless the acts of the Judicial Officer are proved to be done under some extraneous circumstances. The object and aim of the RTI Act is to bring in accountability and containing corruption and at the same time, to see that the sovereign function of the institution is not affected. The Hon'ble Supreme Court had the occasion to discuss about the object of the RTI Act in a case between *the Institute of Chartered Accountants of India Vs. Shaunak H. Satya & Ors.*

**23.** In Para-18 of the said judgment, the Hon'ble Supreme Court has observed as follows:-

  
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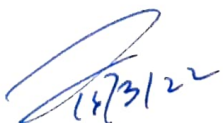


*"..... The object of RTI Act is to harmonize the conflicting public interests, that is, ensuring transparency to bring in accountability and containing corruption on the one hand, and at the same time ensure that the revelation of information, in actual practice, does not harm or adversely affect other public interests which include efficient functioning of the Governments, optimum use of limited fiscal resources and preservation of confidentiality of sensitive information, on the other hand. While sections 3 and 4 seek to achieve the first objective, sections 8, 9, 10 and 11 seek to achieve the second objective. Therefore, when section 8 exempts certain information from being disclosed, it should not be considered to be a fetter on the right to information, but as an equally important provision protecting other public interest essential for the fulfilment and preservation of democratic ideals....."*

**24.** On careful analysis of the above facts, it reflects that the father of the appellant has already exercised the remedy available against the ex-parte judgment and decree passed by the concerned Judicial Officer. The above facts also disclose that the information sought for by the appellant is personal information in respect of the officer and it has no relationship with any public activity or interest, the disclosure of which will amount to unwarranted invasion of the privacy of the said officer. If any action has been taken by the Hon'ble High Court on the administrative side on the basis of the complaint filed by the father of the appellant and it is disclosed, it would not serve the public any interest, rather it would make the Judicial Officer vulnerable. It would make the Judicial Officer exposed and putting him under unreasonable and unwarranted danger as well as causing unwarranted pressure upon him while discharging other judicial functions. Such information, if disclosed, also might affect the personal life of the said officer which would have far reaching consequences.

**25.** In view of the above discussions, I am of the considered opinion that the information sought for by the appellant is covered under the exemption of Section 8 (j) of the RTI, Act, 2005 read with Rule 5 (c) of the Gauhati High Court (Right to Information) Rules, 2008.

**26.** In view of the above, I have found that the learned PIO has rightly decided not to disclose the information sought for by the appellant.

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**27.** Accordingly, the appeal preferred by the appellant under Section 19 (1) of the RTI Act is found to be devoid of any merit. As such, the same is not considered and accordingly, dismissed.

**28.** Copy of this order be furnished to the appellant as well as the PIO.



**REGISTRAR GENERAL**