

OFFICE OF THE REGISTRAR GENERAL

MAHATMA GANDHI ROAD, PANBAZAR, GUWAHATI
[APPELLATE AUTHORITY]

RTI Appeal ID No. 01/2024-25

Bidyut Bikash Goswami,
S/O Sri Girish Ch. Goswami,
Village-Chamarkuchi, P.O. Sanekuchi,
Dist. Nalbari, Assam, Pin-781350.

----- Appellant.

- VERSUS -

Sri S. Dhar,
Registrar (Judicial)-cum- PIO,
Gauhati High Court, Guwahati.

----- Respondent.

P R E S E N T

Sri Sunil Kumar Poddar, AJS.
Registrar General-cum-Appellate Authority under RTI Act.

Date of appeal : 17th May, 2024.
Date of hearing : 01st June, 2024.
Date of order : 21st June, 2024.

:: ORDER ::

The appellant, Sri Bidyut Bikash Goswami, is present in person. Sri S. K. Dhar, learned PIO-cum-Registrar (Judicial) is also present during the hearing.

2. The appellant being aggrieved by the alleged non-furnishing of all the entries of the APAR format has preferred the instant appeal under Section 19 (1) of the Right to Information Act, 2005.

3. The original queries made by the appellant were as follows:

“i) What are the remarks of the (a) Reporting Authority, (b) Reviewing Authority and (c) Accepting Authority in respect of the present

applicant with regard to APAR of the years 2021, 2022 and 2023, respectively ?

ii) Please supply the copies of the completed/final APAR Formats in respect of the present applicant for the years 2021 to 2023.

iii) What are the criteria adopted by the Registry for downgrading an employee in respect of his/her APAR if he/she was otherwise graded higher, with special remarks, in previous appraisal years?"

Period for which information sought was from 2021 to 2023.

4. In reply to the above queries, the PIO, vide his letter dated 29-04-2024 has provided the following information:

"Query no. (i) & (ii)

Copy of entire ACR (Remarks of Reporting/Reviewing/Accepting Authority) for the year 2021 and 2022 cannot be provided under RTI Act, as the same is confidential in nature, hence disclosure of which is barred under Section 8(1)(j) of the RTI Act, 2005. While the finalization of ACR for the year 2023 is under process.

Query no. (iii)

No such criteria are adopted by the Registry for downgrading an employee in respect of his/her APAR remarks. However, in part V of the APAR format, the Reviewing Officer may agree/disagree with the assessment made by the Reporting Officer and in case of disagreement, may specify the reasons, if anything he wish to modify or add for upgrading/downgrading the remarks."

5. Being aggrieved, the appellant has filed this appeal on the following grounds:

"A) For that, the Ld. PIO has misconceived in rejecting the prayer for supply of the entire APAR/ACR details for the period w.e.f. 2021 to 2023 in respect of the applicant/appellant.

B) For that, Section 8(1)(j) of the RTI Act, 2005 has laid:

"the PIO has no obligation to provide 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,"

In this case, supply of the ACR details, even though the ACR is confidential in nature, is not going to invade the privacy of any other individual. Further, knowing one's own lacunae in the ACR/APAR would certainly enable him/her to correct himself/herself for performing official duties in an improved manner, which, in its turn, is fairly related to Public Activity/Interest, and, hence, supplying of



one's own ACR/APAR details should not have a bar in view of Sec.8(1)(j).

C) For that, in view of the law laid down by the Hon'ble Supreme Court in *Sukhdev Singh*¹, every entry in the ACR of a public servant must be communicated to him within a reasonable period which helps in achieving threefold objectives. First, the communication of every entry in the ACR to a public servant helps him/her to work harder and achieve more that helps him in improving his work and give better results. Second and equally important, on being made aware of the entry in the ACR, the public servant may feel dissatisfied with the same. Communication of the entry enables him/her to make representation for upgradation of the remarks entered in the ACR. Third, communication of every entry in the ACR brings transparency in recording the remarks relating to a public servant and the system becomes more conforming to the principles of natural justice.

D) For that, in view of the law laid down by the Constitution Bench decision of the Hon'ble Apex Court in *Maneka Gandhi*², non-communication of an entry is arbitrary, and it has been held that arbitrariness violates Article 14 of the Constitution of India.

E) That, for any view of the matter, the decision of Authorized Person/PIO is bad labling the same to be set aside.”

6. During hearing of the RTI appeal, the appellant, relying on the case of *Sukhdev Singh* and the case of *G.R. Meghwal*³ (Civil Appeal No. 2021 of 2022), has submitted that the PIO is bound to furnish all the entries in the ACR format as the same is a matter of right of the applicant to know his assessment done by the competent authorities on his work for the year reported for the purpose of his betterment. It is also stated that the entries are relevant for filing review petition before the competent authority against the grading given. It is also argued that furnishing such information cannot be a bar under Section 8(1)(j) of the RTI Act, 2005.

On the other hand, the Registrar (Judicial)-cum-PIO relying on the Office Memorandum No. 10/20/2006-IR, dated 21-09-2007, issued by the Ministry of Personnel, Public Grievances & Pensions Department, Department of Personnel & Training, Government of India, has submitted that information

¹ *Sukhdev Singh vs. Union of India & Ors.*, reported in AIR 2013 SC 2741/2013(9)SCC 566

² *Maneka Gandhi vs. Union of India*, reported in 1978 (1) SCC 248/AIR 1978 SC 597

³ *Union of India and ors. Vs. G.R. Meghwal*, reported in 2022 SCC Online SC 1291

are withheld and grading being confidential in nature have already been communicated to the applicant. It is also submitted that the entries in the APAR format are only tools to arrive at a finding on the final grading and, hence, the applicant should not insist for every entry in the APAR format.

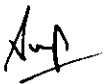
7. I have considered the submissions made by both sides, and gone through the case laws relied by the appellant and the Office Memorandum dated 21.09.2007.

8. Before going into details of the case laws relied upon by the appellant, it is a fact that vide Office Memorandum No. 10/20/2006-IR, dated 21-09-2007, the Government of India, Personnel Department has categorically laid down that Public Authority is not under obligation to disclose ACRs of any employee to the employee himself or to any other person inasmuch as disclosure of ACRs is protected by clause (j) of sub-section (1) of Section 8 of the RTI Act and an ACR is a confidential document, disclosure of which is protected by the Official Secrets Act, 1923. However, the public authority has discretion to disclose the Annual Confidential Reports of an employee to the employee himself or to any other person, if the public authority is satisfied that the public interest in disclosure overweighs the harm to the protected interests.

9. From the above Office Memorandum of the Government of India it is clear that there is no absolute bar in disclosing all the entries in APAR to the applicant himself.

10. In the reported case of Sukhdev Singh (supra), relied upon by the appellant, which has followed the ratio of Dev Dutt⁴, the Hon'ble Supreme Court of India observed that *every entry in ACR of a public servant must be communicated to him/her within a reasonable period.*

The Hon'ble Supreme Court in the above case has also given the following reasons for disclosing such information:



⁴ Dev Dutt vs. Union of India & Ors, reported in (2008) 8 SCC 725

“8. In our opinion, the view taken in Dev Dutt that every entry in ACR of a public servant must be communicated to him/her within a reasonable period is legally sound and helps in achieving threefold objectives. First, the communication of every entry in the ACR to a public servant helps him/her to work harder and achieve more that helps him in improving his work and give better results. Second and equally important, on being made aware of the entry in the ACR, the public servant may feel dissatisfied with the same. Communication of the entry enables him/her to make representation for upgradation of the remarks entered in the ACR. Third, communication of every entry in the ACR brings transparency in recording the remarks relating to a public servant and the system becomes more conforming to the principles of natural justice. We, accordingly, hold that every entry in ACR - poor, fair, average, good or very good - must be communicated to him/her within a reasonable period.”

11. The Hon'ble Supreme Court of India in the case of G.R. Meghwal (supra), as relied upon by the appellant, has also relied upon the case of Dev Dutt (supra) and Sukhdev Singh (supra) and emphasised that a public servant is entitled to get copies of every entries of his/her ACR.

12. On the above aspect, I have also gone through the judgments of Dev Dutt (supra) and R.K. Jain⁵. In these cases, the Hon'ble Supreme Court of India has categorically held that even though no adverse remarks are passed by the authority, a Government employee is entitled to get all the entries in the ACR.

13. Under similar facts and circumstances, in the case of Shilabhadra Sinha⁶, Hon'ble the Gauhati High Court has categorically held that disclosure of the entries in the ACRs are not exempted under Section 8(1)(j) of the RTI Act and the authorities are bound to furnish such information as and when demanded.

14. In view of the ratios laid down above, I am of the considered opinion that the appellant has every right to seek information, under the RTI Act, not only all the entries made in the APAR format, but also the entire ACR format for his perusal. Furnishing of all such copies of APAR format is not a bar under

⁵ R.K. Jain vs. Union of India & Another, reported in 2013 o Supreme (SC) 377

⁶ District and Sessions Judge and Anr. Vs. Shilabhadra Sinha and Anr. reported in 2010(5) GLT 140

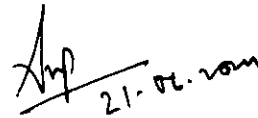
Section 8(1)(j) of the RTI Act as well as under the Office Memorandum No. 10/20/2006-IR, dated 21-09-2007, issued by the Government of India.

15. In view of above, I am of the opinion that the learned PIO should have furnished information as requested by the appellant in his RTI application.

16. Considering matter in its entirety, the appeal is allowed. The PIO is directed to furnish information sought for in the RTI application within the next 10 days from the date of receipt of a copy of this order.

17. Furnish a free copy of this order to the appellant and the learned PIO.

18. It may be mentioned here that date for delivery of judgment of this appeal was fixed on 15.06.2024. But as I was away from headquarter on official duties, judgment could not be delivered on that day and case is re fixed for judgment today.



[Sri Sunil Kumar Poddar]
Registrar General-cum-Appellate Authority
under RTI Act,
Gauhati High Court, Guwahati.