

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

**RTI APPEAL No:- ID NO. 03/2023-24**

APPELLANT- SRI BIPUL HAZARIKA, S/O Mr. PRAFULLA HAZARIKA, C/O Jayanta Phukan, Down Town, House No.-49, Guwahati-06

RESPONDENT- REGISTRAR (JUDICIAL) & PIO, GAUHATI HIGH COURT

DATE OF HEARING: 27/10/2023

DATE OF ORDER: **27/10/2023**

**Relevant facts emerging from appeal:-**

RTI application received on: 14/08/2023

PIO replied on: 22/08/2023

Appeal filed on: 29/09/2023

**(I)** Information sought: The Appellant filed an RTI application before the PIO, Judicial Department, Govt. of Assam dated 07/08/2023, which was received on 14/08/2023 in the Gauhati High Court seeking the following information:

*"A. Is Establishment/ Appointing Authority of all the District Judiciary of Assam is bound to follow the Procedure / Guidelines related to reservation which are mentioned in following Rules, Act, Notification, Office Memorandum etc. at the time of fill up the post of Upper Division Assistant by way of promotion from the candidates of Schedule Tribes (Plane) category who is/are presently working as LDA/Computer typist/Typist/Copyist.*

- 1. The Assam District & Sessions Judges Establishment (Ministerial) Service Rules, 1987.*
- 2. The Assam Scheduled Caste and Scheduled Tribes (Reservation of Vacancies in Services and Posts) (Amendment) act 2012, which is published in the Assam Gazette Notification dated 21/08/2012.*
- 3. Office Memorandum No. ABP/81/2022/58 dated 18/01/2023 issued by the Govt. of Assam, Personal Department.*

*B. If any other Rules, Act, Notification, Office Memorandum etc. is applicable other than those which are mentioned above, kindly provide copy of same."*

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**(II)** The PIO furnished a reply to the appellant on 22/08/2023 stating as under:-

*"The information asked for cannot be furnished as the query demands legal opinion of the PIO, which does not fall under the definition of information under RTI Act, 2005."*

**(III)** Being dissatisfied, the appellant filed the present Appeal dated 29/09/2023 on the following grounds:

(A). The Hon'ble PIO misinterpreted and misread the definition of information' as given in the RTI Act, 2005. The definition of information' as given in the Act reproduced below:

*"Information means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force"*

In definition of 'information' it is clearly mentioned that information includes 'opinion' also. The word opinion is present in the Section 2(f) of the RTI Act, 2005.

(B) It is highly unbelievable and surprising that PIO, Judicial Department, Govt. of Assam has failed to furnish the information being Govt of Assam who itself enacted the rules and act which are mentioned in my application."

**(IV)** On the date of hearing, the appellant through a letter dated 26.10.2023 attached in an email dated 27.10.2023 submitted the Appellate Authority that he was prevented from appearing in person due to urgent family problems and prayed that following submissions be considered:-

*"If PIO Gauhati High Court does not have such information available in his office which I sought, he ought to have issue a letter to the concerned office of Govt. of Assam seeking such information. It is admitted fact that PIO personal opinion is not required to be supplied. If PIO thinks that such information falls in the category of "opinion" he ought to have tried to find out whether any such type of opinion is available in the records.*

*It is highly unbelievable that there is no such opinion on records regarding applicability of Govt. Rule, Act, Notification etc. (as mentioned in my RTI Application) to the District Judiciary of Assam."*

**(V) Decision:-**

(i) This Appellate authority has considered both the RTI application originally filed by the appellant, the reply furnished by the PIO and the written submissions submitted by the appellant. On perusal of the same, it is apparent that the "information" sought for in the impugned RTI Application has an interrogative essence which, albeit, is not

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covered under the definition of "information" as envisaged in Section 2(f) of the RTI Act.

- (ii) For better understanding the mandate of RTI Act, it is to be noted that outstretching the interpretation of Section 2(f) of the RTI Act to include inferences to be drawn by the PIO is unwarranted.
- (iii) It is pertinent to mention herein that Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training vide O.M.No.1/4/2009-IR dated 5.10.2009 had circulated a Guide on the "Right to Information Act, 2005" wherein it has been inter alia, stated that only such information can be supplied under the Act which already exists and is held by the public authority or held under the control of the public authority. The Public Information officer is not supposed to create information; or to interpret information' or to solve the problems raised by the Applicants; or to furnish replies to hypothetical questions.
- (iv) In this regard, judgment of the Hon'ble Supreme Court on the scope and ambit of Section 2(f) of RTI Act in the matter of **CBSE vs. Aditya Bandopadhyay & Ors.**[CIVIL APPEAL NO.6454 of 2011], can be referred to, wherein it was held as under:

*"...At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing.....A public authority is also not required to furnish information which require drawing of inferences and/or making of assumptions. It is also not required to provide 'advice' or 'opinion' to an applicant, nor required to obtain and furnish any 'opinion' or 'advice' to an applicant. The reference to 'opinion' or 'advice' in the definition of 'information' in section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act."*

- (v) It is seen that the appellant has though admitted that personal opinion of PIO is not required to be supplied in an application under RTI but at the same it is the contention of the appellant that "the PIO ought to have found out whether any such "opinion" is available on record" or ought to have forwarded the application to the concerned office of Govt. of Assam.
- (vi) Submissions of the appellant cannot be accepted, in as much as, the nature of information sought for by the applicant itself being in the nature of 'opinion', no further action is required from the end of the PIO. It is reiterated that the PIO is to provide only readily available 'information' and not conduct research to cater to such

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queries in the garb of "information". In the instant case, applicability of existing Laws and Rules, for promotion of govt. servants who enter service under reserved category is purely a question of legal interpretation and one cannot bring into play the provisions of the RTI Act to obtain such opinion.

(vii) As indicated hereinabove, the applicant through his RTI application sought to know the provisions of law, Rule, Notifications etc regarding reservation of posts which is followed by District Judiciary while carrying out exercise of promotion to the post of Upper Division Assistant. The latter thus, in view of the aforesaid judgment in Aditya Bandhopadhyay (Supra) and the O.M.No.1/4/2009-IR dated 5.10.2009 of Government of India, would amount to drawing of inference and commenting upon the applicability of existing laws; rules or guidelines thus not bringing the same within the ambit and scope of Section 2(f) of the RTI Act.

(viii) In view of the above, this authority does not find any merit in the appeal. The appeal therefore, stands dismissed.

**(VI)** Let this Order be communicated to the appellant and the PIO, Gauhati High Court.

27.10.23.  
Registrar General cum Appellate Authority