

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.9.2014

CORAM:

THE HONOURABLE MR.JUSTICE N.PAUL VASANTHAKUMAR
AND
THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.26781 of 2013
& M.P.No.1 of 2013

The Public Information Officer,
The Registrar (Administration),
High Court, Madras.

.. Petitioner

Vs.

1. The Central Information Commission,
Rep. by its Registrar,
Room No.306, 2nd Floor, "B" Wing,
August Kranti Bhavan,
Bhikaji Cama Place, New Delhi-110 066.

2. B.Bharathi

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records in Case No.CIC/SM/C/2012/900378 to 384, CIC/SM/C/2012/000600, 601, 970 to 975, 993 to 1000, 1120 to 1131, 1133, 1134, 1145 to 1152, 1162, 1163, CIC/SM/A/2012/900540, CIC/SM/A/2012/000955, 1558, 1776 to 1778 (53 cases) etc., order dated 23.1.2013 passed by the first respondent and quash the same.

For petitioner : Mr.V.Vijay Shankar
For respondents : R-1 - Central Information Commission
Mr.B.Bharathi - R-2 (party-in-person)

(The Writ Petition was reserved for orders on 1.9.2014)

ORDER

K.RAVICHANDRABAABU, J

The Public Information Officer (Registrar (Administration)), High Court, Madras is the writ petitioner. This Writ Petition is filed challenging the order passed by the Central Information Commission, New Delhi (first respondent herein), dated 23.1.2013, whereby the first respondent has directed the petitioner to furnish the information as sought for by the second respondent herein, insofar as six appeals are concerned. In respect of other 47 complaints are concerned, the first respondent-Commission directed

the petitioner to send statement of particulars regarding those complaints.

2. The case of the petitioner is as follows:

The second respondent, a native of Puducherry, has made several applications/queries under the provisions of the Right to Information Act, 2005 (hereinafter referred to as 'the RTI Act') to the Madras High Court, seeking information on various aspects. Out of several such applications/queries made by the second respondent, the first respondent has directed the petitioner to furnish the information as sought for by the second respondent in respect of the following six applications/queries:

(i) Details of action taken on his complaint, dated 1.6.2011 against the Chief Metropolitan Magistrate, Egmore, Chennai and the details of enquiry conducted thereon;

(ii) Details of recruitment rules for the post of Registrar General of High Court, details of constitution of Selection Committee, recommendation made by individual Judges and other information regarding the selection of various individuals as Registrar Generals;

(iii) Details of action taken on earlier application, dated 31.10.2011 regarding the appointment and selection of Registrar General;

(iv) Copies of several petitions/appeals filed by the second respondent and also the file notings made therein;

(v) Copy of earlier complaint, dated 10.12.2011 filed by the second respondent against the Chief Metropolitan Magistrate, Egmore, Chennai and the action taken thereon;

(vi) Information as to what action taken regarding the complaint filed by the second respondent, dated 20.9.2011 against inclusion of one Ms.Geetha Ramaseshan as Advocate in CrI.O.P.No.18804 of 2010 and the file notings thereon.

3. Out of those six queries made by the second respondent, queries (i) and (v) relate to the complaint made by the second respondent against the Chief Metropolitan Magistrate, Egmore, Chennai. Queries (ii) and (iii) relate to the selection and appointment of Registrar General of High Court.

4. Insofar as query (i) is concerned, it is the case of the petitioner that on receipt of the application, dated 5.12.2011 from the second respondent, the petitioner, through communication, dated 20.1.2012, asked the second respondent to come for inspection of

necessary files. It is the further case of the petitioner that though the inspection was fixed on 30.1.2012, the second respondent sought time and accordingly, on 1.2.2012, the second respondent was permitted to peruse the files regarding the action taken. However, in the meantime, the second respondent filed an appeal to the Registrar General of High Court complaining non-furnishing of information and the said appeal was dismissed by the Registrar General on 6.11.2012 by relying on the decision of the Supreme Court in S.L.P.No.27734 of 2012.

5. Insofar as query (v) is concerned, it is the case of the petitioner that the second respondent was already informed through communication, dated 28.3.2012 that his complaint, dated 10.12.2011 has been closed. However, the second respondent filed appeal to the Registrar General of this Court, wherein, an order came to be passed on 12.6.2012, holding that nothing further was to be done in this matter, as the second respondent was already informed on 28.3.2012 itself about the closing of his complaint, dated 10.12.2011.

6. Insofar as query (ii) is concerned, it is the case of the petitioner that the request of the second respondent was rejected by the petitioner on 25.11.2011 on the ground that earlier petition on similar lines, was rejected under Section 8(1)(j) of the RTI Act. However, the second respondent filed an appeal before the Registrar General and thereafter, filed further appeal before the first respondent herein, who in turn, by order dated 28.9.2012, directed furnishing of the required information. Thereafter, on 8.11.2012, the petitioner furnished query-wise information to the second respondent, stating that there are no recruitment rules for the post of Registrar General and that there is no Selection Committee for that purpose. Thus, it is the case of the petitioner that insofar as the query regarding the Registrar General is concerned, the required information has been supplied by the petitioner to the second respondent.

7. Insofar as query (iii) is concerned, it is the case of the petitioner that all the required information as pointed out in respect of query (ii), had been furnished to the second respondent on 8.11.2012.

8. Insofar as query (iv) is concerned, it is the case of the petitioner that the complaint petitions/queries made by the second respondent must be available with him, since they are the complaint petitions/queries made by himself and wherever those documents are available, the information was furnished to the second respondent, through proceedings dated 23.4.2012.

9. Insofar as query (vi) is concerned, it is the case of the petitioner that his request has been put up along with the case bundles in Crl.O.P.No.18804 of 2012, since the matter is sub-judice

and pending before the High Court

10. Not being satisfied with the intimation/information furnished by the petitioner in respect of the abovesaid six cases, the second respondent approached the first respondent-Commission by way of Second Appeals. Those six Second Appeals were taken along with 47 complaints filed by the second respondent himself for disposal by the first respondent.

11. After hearing both sides, the first respondent-Commission passed an order on 23.1.2013 and directed the petitioner herein to prepare a tabular statement listing all the complaints and representations received from the second respondent insofar as those 47 complaints received by the first respondent are concerned and further directed the petitioner to indicate with the particulars about the current status of the action taken in those complaints and send the statement to the first respondent-Commission within 20 working days from the receipt of the order. Insofar as six Second Appeals are concerned, the first respondent-Commission directed the petitioner to provide the desired information sought for by the second respondent by way of attested photocopies of the relevant documents including the file notings wherever available and any correspondence made. The first respondent-Commission further ordered that in case concerning the appointment of the Registrar General, the petitioner must provide the photocopy of the file notings, if any, from the file in which the proposal for appointment of the Registrar General had been processed and finalised. Likewise, the first respondent-Commission ordered to provide the photocopy of the relevant file notings, if any, from the file in which the second respondent's complaint against the appointment of the Registrar General was dealt with. In respect of the appointment of Public Prosecutors since 2006, the first respondent directed the petitioner to provide the photocopies of the letters containing the concurrence or otherwise of the High Court about specific individuals proposed by the State Government. After making such an order, the first respondent has also expressed a word of caution on the action of the second respondent. It is specifically observed by the first respondent that the disclosure of information must be commensurate and in conformity with the smooth functioning of the public authorities and this particular case shows how a single individual can overload a public authority and divert its resources rather disproportionately while seeking information. Sending numerous complaints and representations and then following those with the RTI applications, cannot be the way to redress such grievances, is the other observation made by the first respondent. Accordingly, the first respondent-Commission disposed of six Second Appeals and postponed the proceedings in respect of other 47 complaints for receiving the statement from the petitioner.

12. This Writ Petition is filed by the petitioner challenging the

order of the first respondent-Commission on the following grounds:

(a) Insofar as the query relating to the appointment of the Registrar General of the High Court is concerned, the petitioner has already informed the second respondent that there were no special recruitment rules for the post of Registrar General and there was no Selection Committee for making such recruitment. Likewise, in respect of the query concerning the action taken on the complaint against the Chief Metropolitan Magistrate, Egmore, Chennai, the second respondent was informed that no action was taken and the matter was closed.

(b) The information wherever available and permissible, had been provided to the second respondent. However, the very attitude of the second respondent in sending 53 applications to the High Court seeking information on various issues, shows that his aim is to derail the administration by misusing the RTI Act provisions and bring it to embarrassment and ridicule.

(c) The State Information Commission, by order dated 2.6.2012 in Order No.20854/A/2012, had also passed strictures in another proceedings against the offensive intimidatory act of the second respondent herein. The selection to the post of Registrar General which is a sensitive post in the administrative set up of the High Court, is not a matter to be discussed in public domain, especially through the information sought for under the RTI Act. The post is essentially one of trust reposed by the Honourable Chief Justice of High Court on a particular individual and such selection by the Honourable Chief Justice of High Court is vested under Article 229 of the Constitution of India and the same cannot be made the subject of public discussion. Any further disclosure of information on that issue is thoroughly unnecessary and unwarranted with no element of public interest. Non-furnishing of such information is protected by Section 8(1)(j) of the RTI Act.

(d) The second respondent in one of the queries has sought for copies of his own petitions and appeals. It is not known as to how the second respondent-complainant can seek for those particulars which are admittedly sent by him and presumably available with him.

13. The second respondent has filed counter affidavit. The crux of the averments made therein is as follows:

(a) Insofar as case (i) is concerned, he perused the file on 3.2.2012, but certified copies/copies of file notings or orders were not given as requested by him.

(b) Insofar as case (ii) is concerned, the information sought for by the second respondent on the selection of Registrar General is very important and the petitioner gave the misleading and partial information on 8.11.2012, that too after the issue of orders of the first respondent and till date, he has not received the full

information on the selection of the Registrar General of this High Court.

(c) Insofar as case (iii) is concerned, the information sought for is in respect of the stepwise action taken on his complaint to the Honourable Chief Justice on 31.10.2011 for a free and fair enquiry into the appointment of the present Registrar General. The information was denied on 4.4.2012, i.e. after 30 days and no hearing was extended to the second respondent.

(d) Insofar as case (iv) is concerned, the second respondent sought for the certified copies of his applications/complaints, because, he wanted to know the comments/orders passed by the competent authority to whom he submitted his application.

(e) Insofar as case (v) is concerned, he sought information on the stepwise action taken on his complaint against the Chief Metropolitan Magistrate, Egmore, Chennai and the information was denied by stating that his petition has been ordered to be closed.

(f) Insofar as case (vi) is concerned, the Assistant Public Information Officer disposed of the application submitted on 5.12.2011 by the second respondent, who is not competent to dispose of the same.

(g) The Public Information Officer/Registrar General of this Court did not act in accordance with the provisions of the RTI Act. The Public Information Officer of this Court cannot be exempted from the rules or provisions of the RTI Act. The second respondent's RTI applications are submitted for obtaining information on public interest such as appointment of the Registrar General, approval of the High Court to the Public Prosecutor, seniority list of the District Judges and information of stepwise action taken on his complaint to the Registrar General and the Registrar (Vigilance) and all his requests for information are genuine. The rejection of the information under Section 8(1)(j) of the RTI Act cannot be done without giving reason.

(h) The directions issued by the first respondent to disclose the procedure and file notes of the selection of the Registrar General is reasonable. The President of India or the Chief Justice or any public authority cannot do selection of the candidate as they please, whether it is a sensitive post or not. All the posts starting from Group D to All India Service are filled by proper selection procedure/recruitment rules. If the file notes of the selection of Registrar General are not released, then it leads to unwarranted suspicion on the selection of the Registrar General.

(i) The second respondent is seeking copies of his complaint or application to find out the action taken or order passed by the

competent authority to whom the complaint/letter was addressed. The copies of the complaints were sought because the second respondent did not have any copy. There is a collusion between the Police officials, Public Prosecutor, State Information Commission and Public Information Officer of this Court in stalling the flowing of due information to him and thereby, deny him justice.

14. Mr.V.Vijay Shankar, learned counsel appearing for the petitioner submitted that what are all the information that could be furnished to the second respondent, had been furnished, as stated in the affidavit filed in support of the Writ Petition, except the minutes of the Judges and file notings, which cannot be furnished to the second respondent. He further submitted that on 21.8.2014, the second respondent was informed once again about the action taken on his complaint against the Chief Metropolitan Magistrate, Egmore, Chennai. In all other respects, the learned counsel reiterated the contentions raised in the affidavit filed in support of the Writ Petition and in support of such submissions, he relied on the decision of the Supreme Court reported in 2012 (8) MLJ 122 (SC) (G.R.Deshpande Vs. Cen. Information Commr.) and the decisions of this Court reported in 2013 (5) MLJ 134 (Registrar General of High Court of Madras Vs. K.Elango), 2013 (5) MLJ 385 (Registrar General, High Court of Madras Vs. A.Kanagaraj), 2013 (5) MLJ 513 (Registrar General, High Court of Madras Vs. R.M.Subramanian) and 2013 (5) MLJ 694 (Registrar General, High Court of Madras Vs.K.U.Rajasekar).

15. Per contra, the second respondent who is appearing as party-in-person, reiterated the contentions raised in the counter affidavit and submitted that the information sought for by the second respondent cannot be with-held by the petitioner and the first respondent-Commission rightly passed an order directing the petitioner to furnish those particulars to him.

16. We have considered the submissions made by the learned counsel for the petitioner and the second respondent as party-in-person and perused the materials available on record.

17. The present Writ Petition revolves around the object and scope of the RTI Act, 2005 as well as the right of the second respondent to seek certain informations from the High Court and the entitlement of the petitioner to with-hold certain informations, out of all the informations sought for by the second respondent, on the ground that they are not permissible to be disclosed, which are discussed in detail below.

18. Before we go into the merits of the case, let us consider the relevant provisions of the RTI Act for the purpose of deciding this case, which read as follows:

The RTI Act defines "information" under Section 2(f) as follows:
"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."

Likewise, it defines "right to information" under Section 2(j) as follows:

"right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to--

- (i) inspection of work, documents, records;
- (ii) taking notes, extracts or certified copies of documents or records;
- (iii) taking certified samples of material;
- (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device."

Section 3 of the RTI Act contemplates that all citizens shall have the right to information, subject to the provisions of the Act. The RTI Act was enacted to provide for setting out the practical regime of right to information to citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority.

19. The scope and ambit of the RTI Act came up for consideration before the Honourable Supreme Court on several occasions and in the following decisions, the Supreme Court, after considering the same, has observed as follows:

(a) In the decision reported in 2010 (2) SCC 1 (Khanapuram Gandaiah Vs. Administrative Officer), the Honourable Supreme Court has observed that the applicant under the RTI Act cannot ask for any information as to why such opinions, advices, circulars, orders, etc., have been passed, especially in matters pertaining to judicial decisions, even though he is entitled to get copies of the same.

(b) In 2011 (8) SCC 497 (CBSE Vs. Aditya Bandopadhyay), the Honourable Supreme Court, while quoting the earlier decision reported in 2004 (2) SCC 476 (People's Union for Civil Liberties Vs. Union of India), held that the "right to information" is a facet of the freedom of "speech and expression", as contained in Article 19(1)(a) of the Constitution of India and such a right is subject to any reasonable restriction in the interest of the security of the State

and subject to exemptions and exceptions. It is further observed therein in paragraph 25 that certain safeguards have been built into the RTI Act, so that revelation of information will not conflict with other public interests, which include efficient operation of the Governments, optimum use of limited fiscal resources and preservation of confidential and sensitive information.

(c) In the decision reported in 2012 (13) SCC 61 (Bihar Public Service Commission Vs. Saiyed Hussain Abbas Rizwi), the Honourable Supreme Court has considered the purpose, scheme and scope of the RTI Act, 2005 and found that the "right to information" is not uncontrolled right, but subject to dual check, namely inbuilt restrictions within the statute itself and secondly, Constitutional limitations enshrined under Article 21 of the Constitution of India. The relevant observations made in paragraphs 12, 14 and 15 of the said decision, read as follows:

"12. Right to information is a basic and celebrated fundamental/basic right but is not uncontrolled. It has its limitations. The right is subject to a dual check. Firstly, this right is subject to the restrictions inbuilt within the Act, and secondly, the constitutional limitations emerging from Article 21 of the Constitution. Thus, wherever in response to an application for disclosure of information, the public authority takes shelter under the provisions relating to exemption, non-applicability or infringement of Article 21 of the Constitution, the State Information Commission has to apply its mind and form an opinion objectively if the exemption claimed for was sustainable on facts of the case."

"14. Section 2(f) again is exhaustive in nature. The legislature has given meaning to the expression "information" and has stated that it shall mean any material in any form including papers, samples, data material held in electronic form, etc. Right to information under Section 2(j) means the "right to information" accessible under this Act which is held by or under the control of any public authority and includes the right to inspection of work, documents, records, taking notes, extracts, taking certified sample of materials, obtaining information in the form of diskettes, floppies and video cassettes, etc. The right sought to be exercised and information asked for should fall within the scope of "information" and "right to information" as defined under the Act."

"15. Thus, what has to be seen is whether the information sought for in exercise of the right to information is one that is permissible within the framework of law as prescribed under the Act. If the information called for falls in any of the categories specified under Section 8 or relates to the organisations to which the Act itself does not apply in terms of Section 24 of the Act, the public authority can take such stand before the Commission and decline to furnish such information. Another aspect of exercise of this right is that where the information asked for relates to third-party information, the Commission is required to follow the procedure prescribed under Section 11 of the Act."

(d) In the decision reported in 2012 (8) MLJ 122 (SC) (G.R.Deshpande Vs. Cen. Information Commr.), the Supreme Court observed in paragraphs 13 and 15 as under:

"13. ... The performance of an employee/officer in an organization is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression "personal information", the disclosure of which has no relationship to any public activity or public interest. On the other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual. Of course, in a given case, if the Central Public Information Officer or the State Public Information Officer of 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.

15. The petitioner in the instant case has not made a bona fide public interest in seeking information, the disclosure of such information would cause unwarranted invasion of privacy of the individual under Section 8 (1)(j) of the RTI Act"

20. Keeping the above principles in mind, let us consider the present case. The issue involved in this case is as to whether the disputed information sought for by the second respondent and as directed by the first respondent-Commission to furnish, can be furnished or not. The said issue is no more "res-integra", in view of the earlier decisions of this Court in the following cases:

(a) It is relevant to notice that similar issue arose before a Division Bench of this Court in respect of the information relating to the employees of the Subordinate Courts/Judicial Officers, etc., in the decision reported in 2013 (5) MLJ 134 (Registrar General of High

Court of Madras Vs. K.Elango), wherein the Division Bench in paragraph 59 has observed that the notings, jottings, administrative letters, intricate internal discussions, deliberations etc., of the High Court cannot be brought under Section 2(j) of the RTI Act and furnishing of those information will certainly impede and hinder the regular, smooth and proper functioning of the institution. The relevant paragraphs 59 to 61 of the abovesaid decision are extracted hereunder:

"59. Be that as it may, on a careful consideration of respective contentions and on going through the contents of the application dated 01.11.2010 filed by the 1st Respondent/Applicant, this Court is of the considered view that the information sought for by him in Serial Nos.1 to 9 pertaining to the internal delicate functioning/administration of the High Court besides the same relate to invasion of privacy of respective individuals if the informations so asked for are furnished and more so, the informations sought for have no relationship to any public activity or interest. Moreover, the informations sought for by the 1st Respondent/Applicant, through his application dated 01.11.2010 addressed to the Public Information Officer of the High Court, Chennai, are not to a fuller extent open to public domain. Added further, if the informations sought for by the 1st Respondent/Applicant, through his letter dated 01.11.2010 addressed to the Public Information Officer of High Court, are divulged, then, it will open floodgates/Pandora Box compelling the Petitioner/High Court to supply the informations sought for by the concerned Requisitionists as a matter of routine, without any rhyme or reasons/restrictions as the case may be. Therefore, some self restrictions are to be imposed in regard to the supply of informations in this regard. As a matter of fact, the Notings, Jottings, Administrative Letters, Intricate Internal Discussions, Deliberations etc. of the Petitioner/High Court cannot be brought under Section 2(j) of the Right to Information Act, 2005, in our considered opinion of this Court. Also that, if the informations relating to Serial Nos.1 to 9 mentioned in the application of the 1st Respondent/Applicant dated 01.11.2010 are directed to be furnished or supplied with, then, certainly, it will impede and hinder the regular, smooth and proper functioning of the Institution viz., High Court (an independent authority under the Constitution of India, free from Executive or Legislature), as opined by this Court. As such, a Saner Counsel/Balancing Act is to be adopted in matters relating to the application of the Right to Information Act, 2005, so that an adequate freedom and inbuilt safeguard can be provided to the Hon'ble Chief Justice of High Court

competent authority and public authority as per Section 2 (e)(iii) and 2(h)(a) of the Act 22 of 2005 in exercising his discretionary powers either to supply the information or to deny the information, as prayed for by the Applicants/Requisitionists concerned.

60. Apart from the above, if the informations requested by the 1st Respondent/Applicant, based on his letter dated 01.11.2010, are supplied with, then, it will have an adverse impact on the regular and normal, serene functioning of the High Court's Office on the Administrative side. Therefore, we come to an irresistible conclusion that the 1st Respondent/Applicant is not entitled to be supplied with the informations/details sought for by him, in his Application dated 01.11.2010 addressed to the Public Information Officer of the High Court, Madras under the provisions of the Right to Information Act. Even on the ground of (i) maintaining confidentiality; (ii) based on the reason that the private or personal information is exempted from disclosure under Section 8(1)(j) of the Act, 2005; and (iii) also under Section 8(1)(e) of the Act in lieu of fiduciary relationship maintained by the High Court, the request of the 1st Respondent/Applicant, through his Letter dated 01.11.2010/Appeal dated 20.12.2010 under Section 19 of the Act to the Writ Petitioner/Appellate Authority, cannot be acceded to by this Court. Further, we are of the considered view that the 1st Respondent/Applicant has no locus standi to seek for the details sought for by him, as stated supra, in a wholesale, omnibus and mechanical fashion in the subject matter in issue, (either as a matter of right/routine under the Right to Information Act) because of the simple reason that he has no enforceable legal right. Also, we opine that the 1st Respondent/Applicant's requests, through his Application dated 01.11.2010 and his Appeal dated 20.12.2010, suffer from want of bona fides (notwithstanding the candid fact that Section 6 of the Right to Information Act does not either overtly or covertly refers to the 'concept of Locus').

61. To put it differently, if the informations sought for by the 1st Respondent/Applicant, through his letter dated 01.11.2010/Appeal dated 20.12.2010, are divulged or furnished by the Office of the High Court (on administrative side), then, the secrecy and privacy of the internal working process may get jeopardised, besides the furnishing of said informations would result in invasion of unwarranted and uncalled for privacy of individuals concerned. Even the disclosure of informations pertaining

to departmental enquiries in respect of Disciplinary Actions initiated against the Judicial Officers/Officials of the Subordinate Court or the High Court will affect the facile, smooth and independent running of the administration of the High Court, under the Constitution of India. Moreover, as per Section 2(e) of the read with Section 28 of the Right to Information Act, the Hon'ble Chief Justice of this Court is empowered to frame rules to carry out the provisions of the Act. In this regard, we point out that 'Madras High Court Right to Information (Regulation of Fee and Cost) Rules, 2007' have been framed vide R.O.C.No.2636-A/06/F1-SRO C-3/2008 in Tamil Nadu Gazette, No.20, dated 21.05.2008, Pt.III, S.2. Also, a Notification, in Roc.No.976 A/2008/RTI dated 18.11.2008, has been issued by this Court to the said Rules, by bringing certain amendments in regard to the Name and Designation of the Officers mentioned therein, the same has come into force from 18.11.2008."

(b) In the decision reported in 2013 (5) MLJ 513 (Registrar General, High Court of Madras Vs. R.M.Subramanian), a Division Bench of this Court observed in paragraphs 94 to 96 as follows:

"94. To put it succinctly, the copies of Minutes recorded by the Hon'ble Portfolio Judge, Pudukottai District dated 16.12.2010 and the Minutes recorded by the Hon'ble Chief Justice on 07.03.2011 in the Criminal Contempt Petition issue, cannot be furnished or supplied to the 1st Respondent/Petitioner, for the purpose of maintaining utmost confidentiality and secrecy of the delicate function of the internal matters of High Court. If the copies of the Minutes dated 16.12.2010 and 07.03.2011, as claimed by the 1st Respondent/Petitioner, are furnished, then, it will definitely make an inroad to the proper, serene function of the Hon'ble High Court-being an Independent Authority under the Constitution of India. Moreover, the Hon'ble Chief Justice of High Court [as Competent Authority - Public Authority under Section 2(e)(iii) and 2(h)(a) of the Act, 22 of 2005 and also Plenipotentiary in the Judicial hierarchy] can be provided with an enough freedom and inbuilt safeguards in exercising his discretionary powers either to furnish the information or not to part with the information, as prayed for by any applicant much less the 1st Respondent/Petitioner.

95. That apart, if the copies of the Minutes dated 16.12.2010 and 07.03.2011 are supplied to the 1st Respondent/Petitioner, then, the interest of the administration of the High Court will get jeopardised and also it will perforce the Petitioner/High Court to furnish

the informations sought for by the concerned Applicants/Requisitionists as a matter of usual course without any qualms or rhyme or reasons/restrictions. In effect, to uphold the dignity and majesty of the Hon'ble High Court - being an Independent Authority under the Constitution of India, some self-restrictions are to be imposed as regards the supply of internal/domestic functioning of the Hon'ble High Court and its office informations in respect of matters which are highly confidential in nature inasmuch as it concerns with the Intricate, Internal Discussions and Deliberations, Notings, Jottings and Administrative Decisions taken on various matters at different levels and as such, they are exempted from disclosure under Section 8(e)(i)(j) of the Right to Information Act, 2005. Even otherwise, they are not open to litigants/public without restrictions. No wonder, it can be fittingly observed that if Impartiality is the Soul of Judiciary, then, Independence is the Life Blood of Judiciary. Also that, without Independence, Impartiality cannot thrive/survive.

96. In short, if the informations sought for by the 1st Respondent/ Petitioner are furnished, then, it will prejudicially affect the confidential interest, privacy and well being of the High Court, in the considered opinion of this Court. In any event, the 1st Respondent/Petitioner cannot invoke the aid of Clause 37 of Amended Letters Patent dealing with 'Regulation of Proceedings' and also Order XII [pertaining to the entitlement of Certified Copies] of the Rules of the High Court, Madras, Appellate Side, 1965, since they are not applicable to him."

21. In this case, insofar as queries (i) and (v) are concerned, the information sought for by the second respondent is with regard to the action taken on his complaint against the Chief Metropolitan Magistrate, Egmore, Chennai. It is seen that insofar as query (i) is concerned, the petitioner has called upon the second respondent to peruse the files regarding the action taken on the second respondent's complaint, dated 1.6.2011. In the counter affidavit, the second respondent admitted that he perused the files on 3.2.2012 and however, certified copies/copies of the file notings or orders were not given to him. Insofar query (v) is concerned, it is seen that the petitioner has informed the second respondent on 28.3.2012 that his complaint, dated 10.12.2011 filed against the Chief Metropolitan Magistrate, Egmore, Chennai, had been closed. In fact, the said fact is not disputed by the second respondent. On the other hand, in the counter affidavit, the second respondent admitted that through communication, dated 28.3.2012, he was informed that his petition had been ordered to be closed. Apart from the abovesaid fact, during the pendency of the present Writ Petition, the Registrar (Vigilance) of

this Court has informed the second respondent through communication, dated 21.8.2014 about the action taken on his complaint against the Chief Metropolitan Magistrate, Egmore, Chennai, informing as follows:

"Sir,

Sub: Furnishing of information - Regarding.

Ref: Your complaint dated 02.06.2011 and 29.09.2011,
01.11.2011, 31.10.2011, 10.12.2011

I am to inform you that your complaint dated 02.06.2011 made against the Chief Metropolitan Magistrate (name not mentioned), Egmore, Chennai has been received and assigned Roc.No.409/2011/VC. On perusal of the complaint, the Hon'ble The Chief Justice has been ordered as "Report may be called for from Chief Metropolitan Magistrate, Egmore, Chennai and on perusal of the report submitted, the Hon'ble the Chief Justice has ordered as "Report may be accepted and closed."

Further I am to inform that the complaints dated 29.09.2011, 01.11.2011, 31.10.2011 and 10.12.2011 has been received and assigned Roc.No.6425/2011/VC/Tapal, 6428/2011/VC/Tapal, 6430/2011/VC/Tapal and 716/2012/VC/Tapal and they were ordered to be placed before the Hon'ble Administrative Committee and the Hon'ble Administrative Committee resolved to hold an enquiry pertaining to the allegations against the Subordinate Judicial Officer and staff members of the High Court by the Registrar (Vigilance) and on perusal of the enquiry report, the Hon'ble Administrative Committee has resolved to close the proceedings initiated.

Yours faithfully,

Sd/-

Registrar (Vigilance)"

22. Considering the above stated facts and circumstances, we find that the second respondent cannot have any grievance, as the petitioner has permitted the second respondent to peruse the files regarding the action taken and also informed him of the fact that his complaint had been ordered to be closed. However, the second respondent contends that the file notings and other minutes sought for in his complaint were not furnished. Such information cannot be furnished to the second respondent, as held by this Court in the decision reported in 2013 (5) MLJ 134 (cited supra).

23. Insofar as queries (ii) and (iii) are concerned, the second respondent was informed by the petitioner that there are no recruitment rules for the post of Registrar General and there is no Selection Committee for that post. In the absence of any such

information being available, the second respondent cannot compel the petitioner to furnish the same. Even otherwise, as already observed by the Division Bench of this Court in the decision reported in 2013 (5) MLJ 134 (Registrar General of High Court of Madras Vs. K.Elango), furnishing of those information with regard to the Registrar General which has been done by the Honourable Chief Justice of this Court, cannot be brought under the purview of Section 2(j) of the RTI Act, as, such information pertain to the internal intricate functioning/administration of the High Court and such information has no relationship with any public activity or interest. As observed by the Division Bench therein, certainly, furnishing of those information will hinder the regular, smooth and proper functioning of the institution, unnecessarily warranting scrupulous litigations. In fact, a perusal of the pleadings, more particularly, the application made by the second respondent as well as the counter affidavit filed in this Writ Petition, would show that the second respondent has not disclosed even the basic reason for seeking those informations. On the other hand, he has made those applications mechanically, as a matter of routine under the RTI Act. The Division Bench of this Court, in the said decision, has also observed that the first respondent in that Writ Petition who is similar to the present second respondent, has no locus-standi to seek for the details sought for by him, as he has no enforceable legal right. Further, posting a Senior District Judge as Registrar General by the Honourable Chief Justice is in exercise of powers conferred under Article 229 of the Constitution of India and the second respondent or any other person including other Judges, has no say in the said matter. The said issue is already settled by the Honourable Supreme Court in the decision reported in 1998 (3) SCC 72 (High Court Judicature for Rajasthan Vs. Ramesh Chand Paliwal) and in paragraph 38, the Honourable Supreme Court held that under the Constitutional Scheme, Chief Justice is the supreme authority and other Judges, so far as officers and servants of the High Court are concerned, have no role to play on the administrative side. The said position is reiterated in the subsequent decision of the Supreme Court reported in 2012 (1) MLJ 289 (SC) (Registrar General Vs. R.Perachi).

24. Insofar as query (iv) is concerned, we fail to understand as to how the second respondent is entitled to justify his claim for seeking the copies of his own complaints and appeals. It is needless to say that they are not the information available within the knowledge of the petitioner; on the other hand, admittedly, they are the documents of the second respondent himself, and therefore, if he does not have copies of the same, he has to blame himself and he cannot seek those details as a matter of right, thinking that the High Court will preserve his frivolous applications as treasures/valuable assets. Further, those documents cannot be brought under the definition "information" as defined under Section 2 (f) of the RTI Act. Therefore, we reject the contention of the second respondent in this aspect.

25. Insofar as query (vi) is concerned, admittedly, the matter is sub-judice and pending before the High Court in Crl.O.P.No.18804 of 2010. To that effect, already information had been furnished by the petitioner to the second respondent on 13.3.2012 informing that his petition has been put up along with the case bundle. Therefore, the second respondent is not entitled to get any information with regard to the proceedings pending before the Court of Law and if at all he wants any document relating to the pending case/cases, he has to only apply for certified copy and obtain the same in terms of the Rules framed by the High Court. No doubt, the second respondent is seeking information regarding the action taken against inclusion of one Ms.Geetha Ramaseshan as Advocate in Crl.O.P.No.18804 of 2010. Since his complaint has been put up along with the case bundle, which is pending before Court, the petitioner, certainly, is precluded from furnishing any information, as the matter is seized of by the Court in Crl.O.P.No.18804 of 2010 on its judicial side.

26. Considering the facts and circumstances of the present case as stated above and also going by the earlier decisions rendered by the Honourable Supreme Court and the Division Benches of this Court, cited supra, we are of the view that the present case is squarely covered by those decisions against the second respondent, and therefore, the second respondent is not entitled to get the information in respect of those six appeals by way of attested file copies of the relevant documents including the file notings and the correspondences made thereon. The impugned order of the first respondent-Commission in directing the petitioner to furnish those information, is erroneous and not sustainable, in view of the earlier decisions rendered by this Court and the Honourable Supreme Court as discussed supra. Hence, the impugned order passed by the first respondent-Commission insofar as six appeals are concerned, is liable to be set aside.

27. Insofar as the other 47 complaints wherein the first respondent-Commission has passed an order directing the petitioner to prepare a tabular statement listing all the complaints and representations received from the second respondent, are concerned, we are not in a position to understand as to what are those 47 complaints or applications made by the second respondent and what are the informations that are sought for in those queries. A perusal of the impugned order passed by the first respondent-Commission does not indicate any detail with regard to those 47 complaint cases. In the absence of those material details, we are not in a position to appreciate the order passed by the first respondent-Commission directing the petitioner to prepare a tabular statement listing all the complaints and the representations received from the second respondent being dealt with on the administrative and judicial sides of this Court and the current status of the action taken thereon.

Therefore, we are of the view that the impugned order of the first respondent is bereft of any material particulars insofar as those 47 RTI applications referred to in the impugned order and the direction issued to the petitioner in that regard is also not sustainable.

28. In fact, the first respondent-Commission itself has deprecated the practice of the second respondent herein in overloading the Registry of this Court by making several queries or complaints one after another and following the same under the RTI Act. Having found that the action of the second respondent in sending numerous complaints and representations and then following the same with the RTI applications; that it cannot be the way to redress his grievance; that he cannot overload a public authority and divert its resources disproportionately while seeking information and that the dispensation of information should not occupy the majority of time and resource of any public authority, as it would be against the larger public interest, the first respondent-Commission clearly erred in passing the impugned order in this Writ Petition, directing the petitioner to furnish the details to the second respondent as well as sending a tabular statement listing all the complaints and representations received from the second respondent.

29. For the foregoing reasonings, the impugned order of the first respondent-Commission is set aside and the Writ Petition is allowed. No costs. The Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CSIII)

Dated:19/9/2014

***Corrected Order as per
th order of this Court
dated 23/09/14 and made herein
-s/d-**

Assistant Registrar(CSIV)

Dated:23/9/2014

//True Copy//

Sub Assistant Registrar

cs

To

1. The Registrar,
The Central Information Commission,
Room No.306, 2nd Floor, "B" Wing,
August Kranti Bhavan,
Bhikaji Cama Place, New Delhi-110 066.

2. The Public Information Officer,
The Registrar (Administration),
High Court, Madras.

3. Mr. B. Bharathi,
NO. 57, Kavi Kuil Street,
Ashok Nagar, Lawspet,
Puducherry-605 008

W.P.No.26781 of 2013

jsv(co)
pmk.19.9.2014
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