

1

CHAMBER NO 568 PATIALA HOUSE COPURT
NEW DELHI 110001 MOBILE 8587851489
BEFORE SH. VINOD TIWARI LD INFORMATION
COMMISIONER CENTRAL INFORMATION
COMMISSION BABA GANG NATH MARG OLD JNU
CAMPUS MUNIRKA DELHI 110067

FILE NO CIC/CCABH/A/2024/618345

IN THE MATTER OF
ABHIJEET SINGH
VERSUS
CPIO INCOME TAX OFFICER GUNA
JTCP GWALIOR RANGE

INDEX

S. NO	PARTICULARS	Page No
1	Written Submissions regarding second appeal	3
2	CIC order of yash malhotra vs cpio income tax officer ward 58(7)	9




APPELLANT

FILLED BY


COUNCIL FOR
LEGAL SERVICES

BEFORE SH. VINOD TIWARI LD INFORMATION
COMMISIONER CENTRAL INFORMATION
COMMISSION BABA GANG NATH MARG OLD JNU
CAMPUS MUNIRKA DELHI 110067

FILE NO CIC/CCABH/A/2024/618345

IN THE MATTER OF
ABHIJEET SINGH
VERSUS
CPIO INCOME TAX OFFICER GUNA
JTCP GWALIOR RANGE

WRITTEN SUBMISIONS

- 1 That the Appellant had filed an RTI application seeking only generic income-related information of his wife, specifically the total TDS deducted in her name and the total amount appearing in her Form 26AS, without seeking any personal, sensitive, or intrusive details such as employer identity, bank account numbers, PAN history, income source, or salary structure.



2 That the information sought is purely numerical and non-sensitive, containing only aggregate TDS amounts and total income credited in Form 26AS. Such basic financial figures do not reveal any confidential personal details and therefore do not fall under the scope of "invasion of privacy" as contemplated under Section 8(1)(j) of the RTI Act.

3 That the Appellant has expressly clarified that he does not require any employer details or the manner in which his wife earns such income, nor the bank account where the income is deposited. Since the Appellant seeks only generic totals, the information does not carry any privacy risk and therefore cannot be denied under Section 8(1)(j).

4 That the Hon'ble CIC in Yash Malhotra v. CPIO, Income Tax Department, as well as other similar decisions, has categorically held that a spouse is entitled to limited, non-intrusive income details of the other spouse, especially in cases involving bona fide purposes such as transparency, matrimonial matters, or verification of income.

5 That Form 26AS is merely a tax credit statement reflecting amounts already submitted to the Income Tax Department by third-party deductors. This information is not confidential commercial data but is simply the tax liability record maintained by the Government, which cannot be considered privacy-protected in its generic numerical form.

6 That the First Appellate Authority claimed that the wife "does not file ITR," yet simultaneously the official system clearly shows TDS traces in her name. This contradiction itself establishes that

A handwritten signature in black ink, appearing to read "Shashi".

the Department holds the information, and thus the denial of such information is arbitrary and contrary to law.

7 That to support the bona fides of his RTI query, the Appellant has also provided a pendrive containing video evidence showing that TDS entries do exist under his wife's profile on the Income Tax portal. The authorities have failed to consider this material evidence.

8 That assuming arguendo that the PIO considered the information as "third party information," the PIO and FAA were mandatorily required to comply with Section 11 of the RTI Act, which obligates them to: Issue written notice to the third party, Invite objections in writing, Provide opportunity for representation, And pass a reasoned speaking order balancing privacy and public interest.

9 That in the present case, neither the PIO nor the FAA issued any notice under Section 11 to the wife. No objections were sought, no views were taken, and no speaking order was passed. This is a clear breach of mandatory statutory procedure, rendering the denial illegal and unsustainable.

10 That even if Section 11 were hypothetically applicable, the fact that the Appellant and the person whose information is sought are lawfully wedded husband and wife reduces any privacy expectation, as held in various CIC precedents. The authorities have not sought even a single clarification from the wife, which further demonstrates non-application of mind.

11 That the PIO mechanically denied the RTI without considering the contents of the application, CIC precedents, the nature of the information, or the pendrive evidence provided. Likewise, the



FAA failed to correct the illegality and instead upheld an order passed in violation of Section 11 and Section 8(1)(j).

12 That the conduct of the PIO and FAA defeats the very purpose of the RTI Act, which is to ensure transparency, accountability, and facilitation of access to information. The denial is arbitrary, unlawful, malafide, and contrary to the principles laid down by the Hon'ble Supreme Court and the CIC.

13 That the applicant has sought only generic income information of his wife, limited to total TDS credited and total amounts reflected in Form 26AS. No intrusive information such as employer details, salary slips, bank account numbers, or ITR copies has been sought. Therefore, the information requested is minimal, non-sensitive, and strictly limited to aggregate financial figures already available on the TRACES portal.

14 The PIO and FAA have rejected the RTI by stating that the concerned individual has not filed ITR. This ground is completely irrelevant and factually incorrect, because Form 26AS and TDS data exist even when an ITR is not filed. The pendrive submitted before this Commission clearly shows that multiple TDS entries are visible in her tax account. Hence, the denial on the ground of "no ITR" is legally unsustainable.

Most importantly, the law is absolutely settled that spouses are entitled to each other's financial information and that the exemption under Section 8(1)(j) does not apply in matrimonial contexts. The Hon'ble MP High Court in Smt. Sunita Jain vs. Pawan Kumar Jain (W.A. 168/2015) held that a wife is entitled to know her husband's remuneration and that the Girish Deshpande



judgment does not apply between spouses. Likewise, the Hon'ble Bombay High Court (Nagpur Bench) in Rajesh Ramachandra Kidile vs. Maharashtra SIC (2018) held that salary/income information ceases to be "personal" when sought by a spouse for legitimate legal purposes. The CIC has followed these judgments in the Rahmat Bano decision and again in the 2023 CIC judgment in Yash Malhotra vs. CPIO, where it was categorically held that a husband is entitled to obtain basic income indicators and TDS information of his wife and that such disclosure does not amount to invasion of privacy.

15 Therefore, the information sought in this case is fully permissible, non-intrusive, and within the legal framework established by multiple High Courts and by the CIC itself. The PIO and FAA's denial is contrary to settled law and has resulted in unjustified obstruction of transparency. The applicant respectfully prays that this Hon'ble Commission may direct the PIO to provide the requested TDS totals and 26AS aggregate figures, and take appropriate action against the authorities for withholding information on legally untenable grounds.

PRAYER

In light of the above detailed submissions, it is most respectfully prayed that this Hon'ble Commission may be pleased to:

Direct the PIO to provide the information sought, namely:



- (a) Total TDS deducted in the name of the Appellant's wife for the relevant financial years;
- (b) Total amount credited/reflected in Form 26AS for the same period.
- (c) Pleased to Hold that such information does not attract Section 8(1)(j) as it is generic, non-intrusive, and does not amount to invasion of privacy.
- (d) Pleased to Declare that the PIO and FAA have violated Section 11 of the RTI Act by failing to issue mandatory third-party notice and have therefore acted illegally.
- (e) Pleased to Direct initiation of appropriate penal action under Section 20 of the RTI Act against the PIO for malafide denial of information and for non-compliance with statutory provisions.
- (F) Pleased to issue strict guidelines while passing this order a lot of PIO taking it lightly not even follow the decisions passed by CIC while dealing with RTI relating to matrimonial disputes

Pleased to Pass any other or further orders as this Hon'ble Commission may deem fit and proper in the interest of justice.

FILLED BY


APPELANT


COUNCIL FOR APPELANT

ADV ANMOL MALHOTRA

Yash Malhotra vs Chief Commissioner Of Income Tax (Cca), ... on 5 October, 2023

Yash Malhotra vs Chief Commissioner Of Income Tax (Cca), ... on 5 October, 2023

Author: Saroj Punhani

Bench: Saroj Punhani

Central Information Commission

Baba Gangnath Marg, Munirka
, New Delhi - 110067

File No : CIC/CCITD/A/2023/622483

YASH MALHOTRA

.....

/Appellant

VERSUS

CPIO,
Income Tax Department, ward
no. 58 /7/ Room No 213 D
Second floor Vikas Bhawan,
LP Estate New Delhi-110002.

....

/Respondent

Date of Hearing : 27/09/2023
Date of Decision : 27/09/2023

INFORMATION COMMISSIONER : Saroj Punhani

Relevant facts emerging from appeal:

RTI application filed on : 10/10/2022
CPIO replied on : 28/12/2022
First appeal filed on : 09/01/2023
First Appellate Authority order : 07/02/2023
2nd Appeal/Complaint dated : 04/05/2023

Information sought

The Appellant filed an RTI application dated 10.10.2022 seeking the following information:

Yash Malhotra vs Chief Commissioner Of Income Tax (Cca), ... on 5 October, 2023

"I am filing this RTI application in respect to the income details of my wife. Gross Income/Net income of my wife.

Sonal Dhingra - PAN No. BAOPD5266L from AY 2019-20, 2020-21 and 2021-

22."

The CPIO furnished a reply to the appellant on 02.02.2023 and denied the information under Section 8(1)(j) of RTI Act.

Being dissatisfied, the appellant filed a First Appeal dated 16.02.2023. FAA's order, dated 07.02.2023, upheld the reply of the CPIO with the following observation-

"As discussed above, the application was disposed off by the concerned CPIO, ITO Ward 58(7), New Delhi and information was rightly denied in view of the Hon'ble Supreme Court decision in the case of Girish Ramchandra Deshpande Vs Central Information Commission & Ors (SLP 27734 of 2012 dated 03.10.2012 and since information relates to personal information, the disclosure of which has no relationship to any public activity or interest. Accordingly, the appeal is dismissed and disposed of accordingly."

Feeling aggrieved and dissatisfied, the appellant approached the Commission with the instant Second Appeal.

Relevant Facts emerging during Hearing:

The following were present:-

Appellant: Represented by Adv. Anmol Malhotra present in person. Respondent: Prem Prakash Mehra, ITO Ward 58(7) & CPIO present in person. Third Party: Represented by Anuj Dhingra, present in person.

The written submissions filed by the Appellant and the Respondent prior to the hearing are taken on record.

The Appellant stated that he has sought the income related details of his estranged wife to corroborate evidence pertaining to a maintenance case pending against him before the Court of Law. However, he is aggrieved with the fact that the information was wrongly denied by the CPIO under the garb of Section 8(1)(j) of RTI Act. He urged the Commission for relief to be granted in the matter.

The CPIO submitted that since the information sought by the Appellant pertains to the personal information of the third party; therefore, it was denied to him by invoking Section 8(1)(j) of RTI Act.

The Rep. of third party stated that since such records have already been produced before the Civil Court during pendency of maintenance case; therefore, seeking such information through RTI channel won't serve any public interest, as such.

Decision:

At the outset, it is noteworthy that this bench has dealt with cases bearing the same factual matrix and the stance that has been maintained by it so far is that the information sought for in the RTI Application pertains to the personal information of a third party and stands duly exempted under Section 8(1)(j) of the RTI Act. In this regard, the attention of the Appellant(s) has been drawn towards a judgment of the Hon'ble Supreme Court in the matter of Central Public Information Officer, Supreme Court of India Vs. Subhash Chandra Agarwal in Civil Appeal No. 10044 of 2010 with Civil Appeal No. 10045 of 2010 and Civil Appeal No. 2683 of 2010 wherein the import of "personal information" envisaged under Section 8(1)(j) of RTI Act has been exemplified in the context of earlier ratios laid down by the same Court in the matter(s) of Canara Bank Vs. C.S. Shyam in Civil Appeal No.22 of 2009; Girish Ramchandra Deshpande vs. Central Information Commissioner & Ors., (2013) 1 SCC 212 and R.K. Jain vs. Union of India & Anr., (2013) 14 SCC 794. The following was thus held:

"59. Reading of the aforesaid judicial precedents, in our opinion, would indicate that personal records, including name, address, physical, mental and psychological status, marks obtained, grades and answer sheets, are all treated as personal information. Similarly, professional records, including qualification, performance, evaluation reports, ACRs, disciplinary proceedings, etc. are all personal information. Medical records, treatment, choice of medicine, list of hospitals and doctors visited, findings recorded, including that of the family members, information relating to assets, liabilities, income tax returns, details of investments, lending and borrowing, etc. are personal information. Such personal information is entitled to protection from unwarranted invasion of privacy and conditional access is available when stipulation of larger public interest is satisfied. This list is indicative and not exhaustive..."

Further, in matters concerning the disputes of a husband and wife, the Commission is guided by a judgment of the Hon'ble Delhi High Court in the matter of Vijay Prakash vs. Union of India (W.P. (C) 803/2009) dated 01.07.2009 wherein the Court observed that in private disputes such as the present one between a husband and wife "...The basic protection afforded by virtue of the exemption (from disclosure) enacted under Section 8(1)(j) cannot be lifted or disturbed.."

Similarly, in the matter of Madhumala B. R. vs. ACIT, Ward 3(3)(1), Bangalore based on the same facts in File No. CIC/CCITB/A/2021/609570, the attention of this bench was invited to the following cases filed by the Income Tax authorities in Bangalore with the Hon'ble High Court of Karnataka against the orders of the Commission wherein "gross income" of the spouse was allowed to be disclosed citing the right of maintenance:

Yash Malhotra vs Chief Commissioner Of Income Tax (Cca), ... on 5 October, 2023

1. Jammula Padma Manjari in W.P. No. 18778 of 2017 (CIC/BS/A/2016/001440-BJ)

2. Gulsanober Bano in W.P. No. 34625 of 2019 (CIC/CCITB/A/2017/180340-BJ)

3. Neena Bhatnagar Mani in W.P. No. 7367 of 2020
(CIC/CCITB/A/2018/106268-BJ)

4. Chhavi Goel Nee Agarwal in W.P. No. 7281 of 2020
(CIC/CCITB/A/2018/120646-BJ)

5. Devyani Lakher in W.P. No. 7453 of 2020 (CIC/PNBNK/A/2018/104442)

6. Princy Amit Jain in W.P. No. 11233 of 2020 (CIC/CCITB/A/2018/164565).

Nonetheless, since the averred Court cases are reportedly under an interim stay by the Karnataka High Court and the details of the arguments or further orders are not available on record, this bench has accepted the bar on disclosure thus far only in the Madhumala case.

Per contra, in the recent past this bench has met with the continuing reliance placed by a staggering number of applicants on the decision dated 06.11.2020 of a coordinate bench of the Commission in the Rahmat Bano case, wherein the disclosure of the gross income was allowed to the estranged wife on the ground of sustenance and livelihood of the family. The said decision was premised on the judgments of two High Courts i.e in the matter of Smt. Sunita Jain vs. Pawan Kumar Jain and others judgments of two High Courts i.e in the matter of Smt. Sunita Jain vs. Bharat Sanchar Nigam Limited and others W.A. No. W.A. No. 168/2015 and Smt. Sunita Jain vs. Bharat Sanchar Nigam Limited and others W.A. No. 170/2015 dated 15.05.2018 by Hon'ble MP High Court as well as Rajesh Ramachandra Kidile vs. Maharashtra SIC and Ors in W.P. No. 1766 of 2016 dated 22.10.2018 by Hon'ble High Court of Bombay (Nagpur Bench). Thus, while making a reference to the ratio laid down in the Apex Court judgement in the Girish Ramachandra (supra) case it was held as under in the Rahmat Bano case:

"However, making a distinction with the said judgment, the Division Bench of the Hon'ble High Court of M.P. in the matter of Smt. Sunita Jain vs. Pawan Kumar Jain and others W.A. No. 168/2015 and Smt. Sunita Jain vs. Bharat Sanchar Nigam Limited and others W.A. No. 170/2015 dated 15.05.2018 had in a matter where the information seeker had sought the salary details of her husband from the employer held as under:

"While dealing with the Section 8(1)(j) of the Act, we cannot lose sight of the fact that the appellant and the respondent No.1 are husband and wife and as a wife she is entitled to know what remuneration the respondent No.1 is getting. Present case is distinguishable from the case of Girish Ramchandra Deshpande (supra) and therefore the law laid down by their Lordships in the case of Girish Ramchandra Deshpande (supra) are not applicable in the present case. In view of the foregoing discussion, we allow the appeal and set aside the order passed by the Writ Court in W.P. No.341/2008. Similarly, the W.A. No.170/2015 is also allowed and the

Yash Malhotra vs Chief Commissioner Of Income Tax (Cca), ... on 5 October, 2023

impugned order passed in W.P. No.1647/2008 is set aside."

8. Moreover, the Hon'ble High Court of Bombay (Nagpur Bench) in the matter of Rajesh Ramachandra Kidile vs. Maharashtra SIC and Ors in W.P. No. 1766 of 2016 dated 22.10.2018 held as under:

"8. Perusal of this application shows that the salary slips for the period mentioned in the application have been sought for by the Advocate. As rightly submitted by the learned counsel for the petitioner, the salary slips contain such details as deductions made from the salary, remittances made to the Bank by way of loan instalments, remittances made to the Income Tax Authority towards part payment of the Income Tax for the concerned month and other details relating to contributions made to Provident Fund, etc. It is here that the information contained in the salary slips as having the characteristic of personal nature. Any information which discloses, as for example, remittances made to the Income tax Department towards discharge of tax liability or to the Bank towards discharge of loan liability would constitute the personal information and would encroach upon the privacy of the person. Therefore as held by the Hon'ble Apex Court in the case of Girish Ramachandra Deshpande (supra) such an information could not be disclosed under the provisions of the RTI Act. This is all the more so when the information seeker is a person who is totally stranger in blood or marital relationship to the person whose information he wants to lay his hands on. It would have been a different matter, had the information been sought by the wife of the petitioner in order to support her contention in a litigation, which she filed against her husband. In a litigation, where the issue involved is of maintenance of wife, the information relating to the salary details no longer remain confined to the category of personal information concerning both husband and wife, which is available with the husband hence accessible by the wife. But in the present case, as stated earlier, the application has not been filed by the wife.

9. Then, by the application filed under the provisions of the RTI Act, information regarding mere gross salary of the petitioner has not been sought and what have been sought are the details if the salary such as amounts relating to gross salary, take home salary and also all the deductions from the gross salary. It is such nature of the information sought which takes the present case towards the category of exempted information.

10. All these aspects of the matter have not been considered by the authority below and, therefore, I find that its order is patently illegal, not sustainable in the eyes of law."

9. Taking into consideration the aforementioned analysis and the judgments of the Higher Courts, the Commission directs the respondent to inform the appellant about the generic details of the net taxable income/gross income of her husband held and available with the Public Authority for the period 2017- 2018, within a period of 15 working days from the date of receipt of this order.

Emphasis Supplied

10. The details/copy of income tax returns and other personal information of third party need not to be disclosed to the appellant except as mentioned at para no. 9 above."

Therefore, applying the same yardsticks in favour of the husbands in pursuance of the Appellant's plea during the hearing that the information is being requested for corroborating the evidence in a maintenance case pending against him, the Commission directs the CPIO to provide only the "generic details of the net taxable income/gross income" of the Appellant's wife for the specified time period as contained in the RTI Application to the Appellant free of cost within 15 days from the date of receipt of this order. A compliance report to this effect shall be sent to the Commission by the CPIO immediately thereafter within 7 days.

The appeal is disposed of accordingly.

Saroj Punhani () Information Commissioner () Authenticated true
copy () (C.A. Joseph) Dy. Registrar 011-26179548/ ca.joseph@nic.in
, - /