2026:DHC:9686

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of Decision: October 29th, 2026***

\# **CNR No. DLHC011468472011**

\+ W.P.(C) 7340/2011

PUBLIC INFORMATION OFFICER .....Petitioner

Through: Ms. Priyam Mehta, Advocate.

versus

P.D.GUPTA .....Respondent

Through: None.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

AMIT MAHAJAN, J. *(Oral)*

1. By the present petition, the petitioner seeks the following reliefs:

> *"i. Call for record & proceedings of the entire case in Appeal No. CIC/WB/A/2009/000761-SM and Quash/set aside the Order dated 26.05.2011 passed by the Central Information Commission, New Delhi in Appeal No. CIC/WB/A/2009/000761-SM filed by Shri PD Gupta/Respondent;"*

2. Succinctly stated, the petitioner assails the order dated 26.05.2011 (hereafter **'impugned order'**) passed by the Central Information Commission (hereafter **'CIC'**), whereby the petitioner was directed to locate the information pertaining to the cases wherein judgments were reserved and not pronounced despite the lapse of two months.

3. The respondent is a former judicial officer. On 02.04.2009, the

respondent applied to the Public Information Officer (hereafter referred to as **'PIO'**) under the Right to Information Act, 2005 (hereafter **'RTI Act'**) *vide* Diary No. 115/09. In query 5(2), the respondent stated that in W.P.(C) 2362/2002, filed by him against this Court, arguments were heard on 31.07.2007 by a Division Bench presided over by then Hon'ble Mr. Justice A.K. Sikri, and the judgment was pronounced on 02.05.2008. The respondent, therefore, sought complete details of all the cases heard by the Hon'ble Judge, sitting singly or in a Division Bench, in which judgment was delivered more than two months after the conclusion of arguments.

4. Since no reply was received within thirty days, the respondent filed a first appeal on 12.05.2009 under Section 19 of the RTI Act. Thereafter, the PIO replied on 15.05.2009 that "*No such data is specifically maintained and compiled.*"

5. By letter dated 29.05.2009 addressed to the First Appellate Authority, the respondent alleged that the information had been deliberately withheld and "may be readily available" with the Court Master or Private Secretary of the learned Judge, the Registrar (Admn.-Judicial) and the office of Hon'ble the Chief Justice. The First Appellate Authority by order dated 06.06.2009, found no infirmity in the reply of the PIO, as no such data was maintained, and rejected the appeal.

6. Aggrieved by the order of First Appellate Authority, the respondent preferred a Second Appeal dated 13.07.2009 before the learned CIC, wherein the respondent pressed only for the aforesaid

query. The petitioner had contended that, *firstly*, the information sought is not maintained, and *secondly*, the information was being furnished to the Hon'ble Chief Justice in a sealed cover and was held in a fiduciary capacity and was thus exempt under Section 8(1)(e) of the RTI Act. The learned CIC rejected both contentions by observing that, owing to the practice of Court Masters compiling such lists every month, the information "should be available", and that its disclosure would serve a larger public interest. By order dated 26.05.2011, the learned CIC noted:

> *"5. In the light of the above, we would like to direct the CPIO to locate the relevant records, such as the reports furnished by the Court Masters to the Chief Justice of the High Court through the Registrar every month and to provide photocopies of those reports containing the lists of cases relevant to the RTI request of the Appellant within 15 working days from the receipt of this order. Since the Appellant has not indicated a timeframe for this information and the Respondents pointed out that Honourable Justice Sikri had been in the High Court for a very long time and compiling information about the reserved orders passed by him or benches in which he had been a member judge would be impossible and would disproportionately divert the resources of the public authority, we think that it would suffice if this information is provided for a period of two years only preceding the date of the RTI application. However, if a cumulative list of such pending reserved orders in the High Court is being compiled anywhere in the High Court, including the office of the Chief Justice, it would also suffice to provide a copy of that to the Appellant."*

7. Aggrieved by the impugned order, the petitioner has preferred the present petition.

8. It is the case of the petitioner that, pursuant to the impugned order, all efforts were made to locate the information; however, the same was not found to be held by any functionary of this Court.

9. This Court, by order dated 03.10.2011, issued notice and stayed the operation of the impugned order. The respondent entered

appearance through counsel on 22.11.2011 and sought time to file a counter affidavit; however, no counter affidavit has been filed till date. The interim order was made absolute on 09.07.2012, and the petition was admitted on 17.01.2013. None has appeared on behalf of the respondent since then, including today.

10. The learned counsel for the petitioner submits that the RTI Act provides access only to such information as is held by or under the control of the public authority. She submits that the information sought by the respondent, being a compilation of the judgments of a specific Judge which were reserved but not delivered within two months, is neither maintained nor compiled by the petitioner or by any functionary of this Court.

11. I have heard the learned counsel for the petitioner and perused the record. Since none has appeared on behalf of the respondent, this Court has also considered the stand taken by the respondent in his second appeal before the learned CIC.

12. The principal controversy herein is whether the learned CIC could have directed the petitioner to locate and furnish the information sought, when the consistent stand of the petitioner is that no such record is maintained or compiled.

13. Notably, Section 2(j) defines ***"right to information"*** as "*the right to information accessible under this Act which is held by or under the control of any public authority*". Read with Sections 2(f) and 3 of the RTI Act, the right extends only to information that already exists and is held by the public authority. The relevant

sections are encapsulated herein below:

> *"(f)* ***"information"*** *means any material in any form, including records, documents, memos, e-mails, opinions, advice, 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;"*
> (j) ***"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;*
> *3.* ***Right to information****. - Subject to the provisions of this Act all citizens shall have the right to information."*

14. The Hon'ble Supreme Court in ***Anil Rai v. State of Bihar*****: (2001) 7 SCC 318** laid down guidelines with respect to the time frame during which the Courts, after reserving the orders, should pass judgments.

15. Thereafter, the Registrar General of this Court issued an order bearing No. 132/E-2/ESTT/DHC on 04.04.2003 in terms of the directions passed by the Hon'ble Supreme Court, followed by Corrigendum dated 07.04.2003, which states as under:

> *"2(ii) All the Court Masters are directed to furnish, in a* ***sealed cover****,* ***every month the list of cases where the judgments are reserved and are not pronounced within the period of that month and a list of cases where judgments are pronounced during the month to the Registrar*** *(Admn.-Judicial) for being laid before Hon'ble the Chief Justice."*

16. It is pertinent to note that the Hon'ble Supreme Court in ***Anil Rai (supra)*** directed that such communication be conveyed *"as confidential and in a sealed cover"*, only to enable the Chief Justice to

draw the attention of the Bench concerned to the pending matters, and not for being preserved or compiled for the public.

17. It is trite law that the RTI Act provides access only to such information as is available and existing with the public authority. The Hon'ble Apex Court in ***Central Board of Secondary Education v. Aditya Bandopadhyay*: (2011) 8 SCC 497** has held as under:

> *"35. 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. This is clear from a combined reading of section 3 and the definitions of "information" and "right to information" under clauses (f) and (j) of Section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in Section 8 of the Act. But* ***where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority to collect or collate such non-available information and then furnish it to an applicant."***

18. In ***W.P.(C) 6634/2011, titled The Registrar, Supreme Court of India v. Commodore Lokesh K. Batra & Ors.:* 2014:DHC:6701**, a similar direction of the learned CIC regarding the cases wherein judgments were reserved by the Hon'ble Supreme Court was partly upheld by the learned Single Judge of this Court. However, the Division Bench of this Court in ***The Registrar, Supreme Court of India v. Commodore Lokesh K. Batra: LPA 24/2015, decided on 07.01.2016***, while relying upon ***Aditya Bandopadhyay (supra),*** set aside the said decision and held that the right to information under Section 2(j) of the RTI Act extends only to the information held by the public authority, and that there is no provision under the RTI Act

under which a direction can be issued to the public authority to collate the information in the manner in which it is sought by the applicant.

19. In the present case, the Office Order dated 04.04.2003, as modified by the Corrigendum dated 07.04.2003, only requires the Court Masters to furnish the monthly lists in a ***'sealed cover'*** for being laid before Hon'ble the Chief Justice, so that the attention of the Bench concerned may be drawn to the pending matters. Neither ***Anil Rai (supra)*** nor the said Office Order requires the said lists to be preserved or compiled Judge-wise. No law, rule or regulation requiring the same has been shown.

20. A bare perusal of ***Anil Rai (supra)*** notes that it nowhere directed that the sealed-cover lists are to be kept as a record or made public. The lists were sent to Hon'ble the Chief Justice only so that necessary administrative action could be taken on delayed matters. Therefore, the stand of the respondent that the information is readily available with the Court Masters or the office of Hon'ble the Chief Justice cannot be accepted.

21. Moreover, furnishing the information sought by the respondent would require the petitioner to examine the records of all the cases heard by a particular Judge, whether sitting singly or in a Division Bench, to calculate the time taken in each case, and to prepare a fresh list. This would amount to collecting and collating information, which, as held in ***Aditya Bandopadhyay (supra)***, the public authority is not obliged to do. The learned CIC itself noted that such an exercise would be impossible and would disproportionately divert the

resources of the public authority. Restricting the period to two years does not change the nature of the exercise.

22. It is relevant to note that the petitioner has consistently maintained, at every stage, that no such data is maintained or compiled. The said stand, supported by the affidavit of the PIO, has not been disputed by the respondent by way of any counter affidavit.

23. The learned CIC in the impugned order proceeds merely on the premise that the information "*should be available*" on account of the practice of furnishing such lists to Hon'ble the Chief Justice. A direction under the RTI Act cannot be issued on such an assumption. Such practice does not, by itself, mean that the lists are preserved year after year.

24. This Court is mindful that while timely delivery of judgments is undoubtedly a matter of public concern, the consideration of public interest arises only when the information exists. The same cannot be used to compel a public authority to create information which is not held by it.

25. Considering the aforesaid discussion, the present petition is accordingly allowed, and the impugned order dated 26.05.2011 passed by the learned CIC in Appeal No. CIC/WB/A/2009/000761-SM is set aside.

26. Pending application(s), if any, also stand disposed of.

AMIT MAHAJAN, J

OCTOBER 29, 2026
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