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WP-10464-2010

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE DEEPAK KHOT

ON THE 29th OF APRIL, 2026WRIT PETITION No. 10464 of 2010*THE STATE OF MADHYA PRADESH**Versus**CHIEF INFORMATION COMMISSIONER AND OTHERS*

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Appearance:

Shri Suyash Thakur, G.A. for the respondent/State.

Shri Priyan Shrivastava, Advocate for the respondent No.1.

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ORDER

The present petition has been filed by the petitioner under Article 226 of the Constitution of India seeking the following reliefs :-

- (i) Issue a writ in the nature of certiorari quashing the impugned order dated 1.12.09 passed by the Chief Information Commissioner in Case No. 400/S.I.C./15/Bhopal/2006 (Second Appeal) (Annexure P-1)
- (ii) Any other suitable relief deemed fit in the facts and circumstances of the case may also kindly be granted together with the cost of this petition.

2. It is submitted by learned counsel for the petitioner State that by the impugned order, the State Information Commission has directed the respondent No.1 to supply the information, which either could not have been granted as per section 8(1)(j) of the R.T.I. Act being the personal information. It is submitted that the Public Information Officer has rejected the application, so also the appellate authority. In the second appeal, the State Commission has granted the permission to provide requisite information. Counsel for the petitioner/State further submitted that the Hon'ble Apex



Court in the case of *Bihar Public Service Commission v. Saiyed Hussain Abbas Rizwi*, (2012) 13 SCC 61 has carved out an exception in regard to providing information under the RTI Act applying the provision of section 8(1)(j) and as held that the decision has to be based on objective satisfaction recorded for ensuring that larger public interest outweighs unwarranted invasion of privacy or other factors stated in the provision. It is submitted that in the light of the judgment passed by the Hon'ble Apex court in the case of *Saiyed Hussain Abbas Rizwi (supra)*, the State Information Commission has not passed an order recording its objective satisfaction on the issue of public interest, therefore, deserves to be quashed.

3. From perusal of the impugned order, it is found that the applicant has sought information in regard to his Annual Confidential Report, which otherwise also is now permissible, in view of the law laid down by the Hon'ble Apex court in the case of *Dev Dutt v. Union of India*, (2008) 8 SCC 725, wherein Hon'ble Apex court has held as under :-

"36. In the present case, we are developing the principles of natural justice by holding that fairness and transparency in public administration requires that all entries (whether poor, fair, average, good or very good) in the annual confidential report of a public servant, whether in civil, judicial, police or any other State service (except the military), must be communicated to him within a reasonable period so that he can make a representation for its upgradation. This in our opinion is the correct legal position even though there may be no rule/G.O. requiring communication of the entry, or even if there is a rule/G.O. prohibiting it, because the principle of non-arbitrariness in State action as envisaged by Article 14 of the Constitution in our opinion requires such communication. Article 14 will override all rules or government orders".

4. In the light of law laid down by Hon'ble Apex Court in *Dev Dutt*



(*supra*), now the respondents cannot withhold such information. Further, in the case of *Saiyed Hussain Abbas Rizwi (supra)*, the Hon'ble Apex Court has held as under :-

"23. The satisfaction has to be arrived at by the authorities objectively and the consequences of such disclosure have to be weighed with regard to the circumstances of a given case. The decision has to be based on objective satisfaction recorded for ensuring that larger public interest outweighs unwarranted invasion of privacy or other factors stated in the provision. Certain matters, particularly in relation to appointment, are required to be dealt with great confidentiality. The information may come to knowledge of the authority as a result of disclosure by others who give that information in confidence and with complete faith, integrity and fidelity. Secrecy of such information shall be maintained, thus, bringing it within the ambit of fiduciary capacity. Similarly, there may be cases where the disclosure has no relationship to any public activity or interest or it may even cause unwarranted invasion of privacy of the individual. All these protections have to be given their due implementation as they spring from statutory exemptions. It is not a decision simpliciter between private interest and public interest. It is a matter where a constitutional protection is available to a person with regard to the right to privacy. Thus, the public interest has to be construed while keeping in mind the balance factor between right to privacy and right to information with the purpose sought to be achieved and the purpose that would be served in the larger public interest, particularly when both these rights emerge from the constitutional values under the Constitution of India."

5. In the aforesaid case, the Hon'ble Apex Court has categorically held that the decision of the Authority has to be based on objective satisfaction recorded for ensuring that larger public interest outweighs unwarranted invasion of privacy or other factors stated in the provision. However, in the present case in hand, the applicant has sought information in regard to his ACRs, which cannot be said to be invasion of privacy which is not in public interest at large. The Hon'ble Apex court in catena of judgments has held that



the ACRs are required to be communicated to the employees. In absence of such communication, the applicant has no option except to apply under RTI and in no case such exception can be carved out to reject the application on the ground that objective satisfaction in context of public interest outweighing the privacy has not been recorded. Thus, the public interest has to be construed while keeping in mind the balance factor between right to privacy and right to information with the purpose sought to be achieved and the purpose that would be served in the larger public interest, particularly when both these rights emerge from the constitutional values under the Constitution of India.

6. Accordingly, the impugned order dated 1.12.2009 is hereby affirmed. The petition fails and is accordingly dismissed with no order as to cost.

(DEEPAK KHOT)
JUDGE

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