

CENTRAL INFORMATION COMMISSION

Appeal No. CIC/WB/A/2009/0001, 735, 859, 408, 410, 411 and 530 dated 24-12-2008

Right to Information Act 2005 – Section 19

Appellant: Shri S.C. Agrawal,
Respondent: Supreme Court of India (SCI)

Decision Announced 20/24.11.'09

FACTS

These are seven (7) appeals received from Shri S.C. Agrawal of Dariba, Delhi seeking information from CPIO, Supreme Court of India. Since all these cases concern information claimed to be held by the Chief Justice of India and therefore, requires determination of the scope of the access allowed through the Registry of the SCI they have been clubbed together for hearing.

File No. CIC/WB/A/2009/0001

In this case the information sought by Shri S.C. Agrawal through an application of 12-10-2008 from CPIO, Shri Rajpal Arora, Addl. Registrar, SCI is as follows:

- “1. Copy of the mentioned letter dated 14.10.2008 by Honourable the Chief Justice of India to Chief Justices of High Courts asking them to retire lower court judges with indolent, infirm and with doubtful reputation.
2. Copy of terms and conditions required by judges in lower courts especially in reference to their pre-matured retirement.
3. Criterion to judge lower-court judges about their being indolent, infirm and/ or with doubtful reputation.
4. Authority writing Annual Confidential Report (ACRs) of lower court judges.
5. Safeguard for lower court judges against any possible pressure from those writing their ACRs.
6. Criterion for promoting District Court Judges to High Courts.
7. Any other related information.
8. File notings.”

To this Shri S.C. Agrawal received a response dated 7-11-08 from CPIO, SCI Shri Rajpal Arora as follows:

- “1. You are required to send Rs. 4/- either in cash or by way of Money Order or Demand Draft drawn in favour of

Registrar, Supreme Court of India for obtaining photocopy of letter dated 14.10.2008 written by Hon'ble the Chief Justice of India to Hon'ble Chief Justices of all High Courts.

2. The information is neither maintained nor available in the Registry of Supreme Court of India.
3. No file notings are available."

Not satisfied appellant Shri Agrawal moved a second appeal on 11-11-'08 before Shri M.P. Bhadran, Registrar, SCI with the following plea:

"For information on point numbers from 2 to 7 his reply was the information is neither maintained or available in the Registry of Supreme Court.

I appeal that the learned CPIO may kindly be directed to transfer my RTI petition for rest of the queries under section 6 (3) of the RTI Act to the concerned public authority. Copy of the letter as mentioned in point number I may kindly be sent to me for which I have paid required copying charges with this letter."

In his order of 8-12-08 appellate authority Shri M.P. Bhadran, Registrar found as follows:

"In the appeal memorandum appellant has made a request to direct the CPIO to transfer his application for rest of the queries under section 6 (3) of the RTI Act to the concerned public authority.

In fact, information sought on points 2 to 7 are in respect of the Judges of Lower Court. The information sought by the appellant is not confined to any particular High court or State. So, it was not possible for the CPIO to transfer the application of the appellant to any particular State or to any public authority. I find no error in the impugned order. There is no merit in this appeal and it is only to be dismissed."

Appellant Shri Agrawal's prayer before us in his second appeal is as below:

"But query numbers 2 to 7 are basically based on aspects mentioned in letter dated 14.10.2008 of Honourable the Chief Justice of India to Chief Justice of States, for which the CPIO has already responded favourably under query 1 of my RTI petition by sending a copy of the said letter. Therefore, the petitioner is also entitled to get replies to related query numbers 2 to 7 through public authorities at Supreme Court. After all a letter written by Honourable the Chief Justice of India has to be based on some procedures, norms and guidelines to be followed in the system, and the petitioner has made queries

relating to these procedures etc only and not at all relating to any particular state or court. Therefore, I pray that CPIO at Supreme Court may kindly be directed to respond to my queries 2 to 7. Also file notings as requested in query 8 may kindly be allowed to be provided. It is prayed accordingly.'

File No. CIC/WB/A/2009/0735

In this case the information sought by Shri S.C. Agrawal through an application of 5-5-2009 from CPIO, Shri Rajpal Arora, Addl. Registrar, SCI is as follows:

"Action taken on my letter dated 4.4.2009 addressed to Honourable Chief Justice of India about Additional District Judge Shri A. K. Sripal at Tis Hazari Courts in Delhi. In case my letter is transferred to some other public authority, kindly transfer this RTI petition to the CPIO there so that I may be provided information on ultimate action by any concerned authority on my mentioned letter dated 4.4.2009 addressed to Honourable Chief Justice of India (copy enclosed).

Please arrange file notings by all the concerned public authorities on movement of my letter dated 4.4.2009 addressed to Honourable Chief Justice of India, and also on movement of this RTI petition."

To this Shri S.C. Agrawal received a response dated 29-5-09 from CPIO, Shri Rajpal Arora as follows:

"I write to say that your letter dated 4.4.2009 was placed before Hon'ble the Chief Justice of India on 9.4.2009 and as directed by Hon'ble the Chief Justice of India, the same was filed.

Further, you are required to send Rs. 4/- for obtaining two pages documents @ Rs. 2/- per page relating to noting on your present application either in cash or by way of Indian Postal Order or by Money Order or Demand Draft drawn in favour of Registrar, Supreme Court of India."

Aggrieved by the failure to receive a copy of file noting appellant Shri Agrawal then moved an appeal before Shri M.P. Gupta, Registrar, SCI on 8-6-09 with the following plea:

"He has not mentioned of providing file notings relating to my letter dated 4.4.2009 addressed to Honourable Chief Justice of India about Additional District Judge Shri A. K. Sripal at Tis Hazari Courts in Delhi, as informed by the learned CPIO having been filed. It may be mentioned that file noting on movement of letter dated 4.4.2009 addressed to Honourable Chief Justice of India about Additional District Judge Shri A. K. Sripal at Tis

Hazari Courts in Delhi were also specifically requested in my RTI petition dated 5.5.2009.”

In his order of 24-6-09 appellate authority Shri M.P. Gupta Registrar found as follows:

“The information demanded by the appellant has already been supplied by the CPIO, Supreme Court of India vide impugned order. Accordingly I do not find any illegality in the impugned order and the appeal is liable to be dismissed.”

Appellant’s prayer before us in his second appeal is as below:

“*File notings on movement of RTI petition as even accepted to be provided by the CPIO may kindly be directed to be provided (for which above mentioned postal order was sent).

*Complete file notings on movement of my letter dated 4.4.2009 addressed to Honourable Chief Justice of India about Additional District Judge Shri A. K. Sripal at Tis Hazari Courts in Delhi (As also requested in my RTI petition) may also kindly be directed to be provided. (Refer CIC verdict CIC/WB/A/2008/00426 in the matter ‘Subhash Chandra Agrawal vs. Supreme Court of India.’

File No. CIC/WB/A/2009/0859

In this case the information sought by Shri S.C. Agrawal through an application of 6-7-2009 from CPIO, Shri Rajpal Arora, Addl. Registrar, SCI is as follows:

- “1. Copy of complete correspondence with Honourable Chief Justice of India as mentioned in enclosed TOI report involving issue of a Union minister through his/ her lawyer having approached Mr. Justice R. Reghupati o madras High Court to influence his judicial decisions.
2. Name of Union Minister have tried to influence Justice R. Reghupati of Madras High Court.
3. Name of advocate having approached Mr. Justice R Reghupati on behalf of the Union Minister.
4. Steps taken against the referred Union Minister and the Advocate having tried to influence/ approach Mr. Justice R Reghupati for a biased decision by the Honourable Judge.
5. Does correspondence in mentioned TOI report dated 6.7.2009 include names of union Minister/ advocate having tried to influence/ approach Mr. Justice R Reghupati?
6. If not, steps take by Honourable Chief Justice of India to get names of referred Union Minister and his advocate revealed even if an unconditional apology might have

- been sought as desired by Mr. Justice R. Reghupati as pre-condition to hide name or referred Union Minister.
7. Does declining to make name of influencing Union Minister by a Judge of high Court Public, not encourage malpractices by influential ones like a Union Minister?
 8. Steps taken by Honourable Chief Justice of India and/ or his office to ensure compulsory revealing of names by judges of person/s having tried to influence them.
 9. Any other related information.
 10. File notings on movement of this RTI petition as well.”

To this Shri S.C. Agrawal received a response dated 4-8-09 from CPIO, Shri Rajpal Arora as follows:

“I write to inform you that the information sought by you is not handled by and dealt with by the Registry of Supreme Court of India and the information relating thereto is neither maintained nor available in the Registry. Hence your request cannot be acceded to under the Right to Information Act, 2005.

You are required to send Rs. 12/- either in cash or by way of Indian Postal Order or by Money Order or demand Draft drawn in favour of Registrar, Supreme Court of India for obtaining true copy of noting on the movement of your present application. (containing six pages).”

Aggrieved with this response appellant Shri Agrawal then moved an appeal before Shri M.K. Gupta, Registrar, SCI on 10-8-09 with the following plea:

“Since information sought relates to Honourable Chief Justice of Supreme Court, it should be provided by the CPIO at Supreme Court but now free-of-charge under section 7 (6) of RTI Act. I may mention that some of my RTI petitions like dated 17.10.2005, 7.1.2009 and 5.5.2009 concerning information related to office of Honourable Chief Justice of India have been responded by the CPIO At Supreme Court. It is not understood how the CPIO at Supreme Court regularly changes stand on providing information related to Honourable Chief Justice of Supreme Court. Honourable Mr. Justice S. Ravindra Bhat of Delhi High court in the matter ‘Bhagat Singh vs. CIC W.P. (C) No. 3114/2007’ has also held that the Right to Information Act being a right based enactment is akin to a welfare measure and as such should receive liberal interpretation. Present petition is also in accordance with esteemed verdict by full bench of Honourable Central Information Commission in appeal number CIC/WB/A/2008/000426.”

In his order of 5-9-09 appellate authority Shri M.K. Gupta found as follows:

“In this regard, it is observed that learned CPIO vide impugned order has already informed the appellant to the effect that the requisite information is not handled by and dealt with by the Registry of Supreme Court of India and information relating thereto is neither maintained nor available in the registry.

Accordingly, I do not find any merits in the appeal.’

Appellant Shri Agrawal’s prayer before us in his second appeal is as below:

“Central Public Information Officer may kindly be directed to provide sought information in my RTI petition dated 6.7.2009 in accordance with provisions under RTI Act in the form required as per section 7 (9) of the RTI Act, but now free- of- charge under section 7 (6) of RTI Act. Action may kindly be initiated against concerned officer/s at Supreme Court registry under section 20 of RTI Act for declining information even after esteemed verdict dated 2.9.2009 in the matter ‘CPIO, Supreme Court vs. Subhash Chandra Agrawal’ (WP (C)288/ 2009) by Honourable Mr. Justice S. Ravindra Bhat at Delhi High Court.”

File No. CIC/WB/A/2009/0408

In this case the information sought by Shri S.C. Agrawal through an application of 27-1-09 from CPIO, Shri Rajpal Arora, Addl. Registrar, SCI is as follows:

- ‘1. What is the practical status of ‘In House procedure for complaints against Judges’ passed by all the Honourable Judges of Supreme court in December 1999 of which an official copy has already been provided to the undersigned by the CPIO at Supreme Court?
2. Number of times (mentioning details) when ‘In House procedure’ has been invoked at Supreme Court.
3. Was any action ever taken under ‘In House procedure’ against any Honourable Judge at Supreme Court or by Honourable the Chief Justice of India against some Chief Justice/ judge of any High Court of Supreme Court?
4. If yes, kindly provide details.
5. Has Supreme Court ever monitored implementation of resolution on ‘In House procedure’ passed at Supreme Court at High courts for which there were mentions in the resolution?
6. If yes, please provide any such details available a the Supreme Court.

7. Is 'In house procedure for complaints against Judges' available on public domain of Supreme Court through website or publication for public knowledge?
8. If not, steps taken or intended to be taken to make public aware about 'In House procedure for complaints against judges.'
9. Any other related information.
10. Copy of file notings on removing photos of all Honourable Judges from outside court room of Honourable chief Justice as reported by Indian Express in its edition of 20.1.2009 (copy enclosed).
11. Complete file notings on movement of this RTI petition."

To this Shri Agrawal received a response dated 25-2-09 from CPIO, Shri Rajpal Arora as follows:

"Point Nos. 1 to 6, 8 & 9: Supreme Court, Registry does not deal with the matters pertaining to 'In House Procedure' and, therefore, CPIO of Supreme Court is not in position to provide the desired information.

Point No. 7: The In House Procedure is not available on the website of Supreme Court and has not been published by the Supreme Court Registry.

Point No. 10 : There is no file notings in the records of the Registry, on removing photographs of the Hon'ble Judges from outside the Court Room of Hon'ble Chief Justice of India.

Point No. 11: You are required to send Rs. 8/- either in cash or through Indian Postal Order or Money Order or Demand Draft drawn in favour of Registrar, Supreme Court of India for obtaining copy of the notings on movement of your present application including copy of orders of Hon'ble the Chief Justice of India. (containing 4 pages @ Rs. 2/- per page)."

Appellant Shri Agrawal then moved an appeal before Shri M.P. Bhadran, Registrar, SCI received on 27-2-09, with the following plea:

"Since this decision of removing photos is also not on judicial side of the Supreme Court, I appeal that copy of the order in this regard together file notings may also kindly be directed to be provided after collecting information/ copies of documents from concerned ones at Supreme Court. It is prayed accordingly."

In his order of 24-3-2009 Shri M.P. Bhadran dismissed this appeal on the following ground:

"Point nos. 1 to 6, 8 and 9 deal with 'In House Procedure' for compliance against the Hon'ble Judges of Supreme Court.

CPIO has given the reply that the Supreme Court Registry is not dealing with the matters pertaining to 'In House Procedure' and therefore, CPIO is not in a position to provide the desired information.

So far as the information regarding removal of photographs of Hon'ble Judges of the Supreme Court is concerned CPIO has informed the appellant that there is no file notings in the records of the Registry in respect of removal of photographs of Hon'ble Judges from outside the Court room of Hon'ble the Chief Justice of India. So, there is no further information to be supplied to the appellant by the CPIO. The true copy of file notings on point No. 11 has already been supplied to the appellant by the CPIO along with the leader dated 3.3.2009. So, there is no merit in this appeal and it is only to be dismissed."

Appellant Shri Agrawal's prayer before us in his second appeal is as below:

"Shri M. P. Bhadran's role as being First Appellate Authority is not proper because file notings reveal that he was an authority linked with CPIO's reply on the RTI petition. It is a well established fact that Decisive Authority cannot be Appellate Authority. File notings also reveal that Honourable Chief Justice of India also endorsed note for CPIO's reply to the RTI petition, thereby leaving no scope for argument that CPO of Supreme Court is not in a position to provide the desired information. It was CPIO at Supreme Court who provided me a copy of important resolution of 'In House Procedure'. Therefore it is but natural for an RTI petitioner to expect information on issues relating to the resolution passed by all the Honourable Judges of the Apex Court.

Under the circumstances, I appeal to Honourable Central Information Commission to kindly direct authorities at Supreme Court to provide me required information to point numbers (1) to (6) and (8) to (9) of my RTI petition after gathering information from the concerned one/s at Honourable Supreme Court."

File No. CIC/WB/A/2009/0410

In this case the information sought by Shri S.C. Agrawal through an application of 19-1-09 from CPIO, Shri Rajpal Arora, Addl. Registrar, SCI is as follows:

1. What is the status of 'Restatement of Values of Judicial Life' (copy enclosed) passed by all the Honourable Judges of Supreme Court on 7.5.1197 of which an official

- copy has already been provided to the undersigned by the CPIO at Supreme Court?
2. Is a copy of the said resolution made available to every one joining as an Honourable Judge in Supreme Court?
 3. Is sue-motto cognizance taken in respect of violation of any of the case in 'Restatement of Values of Judicial Life'?
 4. Has any complaint regarding violation of any of the 16 codes of 'Restatement of Values of Judicial Life' ever been made?
 5. Steps taken in case an Honourable Judge violates any of the 16 codes of 'Restatement of Values of Judicial Life'.
 6. Kindly give details of any action ever take in case of violation of any point of 'Restatement of Values of Judicial Life'.
 7. Is 'Restatement of Values of Judicial Life' available on public domain of Supreme Court through website or publication for public knowledge?
 8. If not, steps taken or intended to be taken to make public aware about 'Restatement of Values of Judicial Life'.
 9. Referring point nine of 'Restatement of Values of Judicial Life', does this code also include interviews given to media by some Honourable Judge/s including Honourable Chief Justice?
 10. Any other related information.
 11. Copy of file notings on reach to decision to put photos of all Honourable Judges outside court room of Honourable Chief Justice as report by Indian Express in its edition of 18.1.2009 (copy enclosed).
 12. Complete file notings on movement of this RTI petition."

To this Shri Agrawal received a response dated 17-2-09 from CPIO, Shri Rajpal Arora Addl. Registrar as follows:

"Point Nos. 1 to 6 and 8 to 8: Supreme Court Registry does not deal with the matters pertaining to the Resolution of Hon'ble Supreme Court dated 7th May 1997 on 'Restatement of Values of Judicial Life', and, therefore, CPIO of Supreme Court is not in a position to provide the desired information.

Point No. 7: 'Restatement of Values of Judicial Life' is not available on Supreme Court website and has not been published by the Supreme Court Registry.

Point No. 11: The colour photographs of Hon'ble the Chief Justice of India and Hon'ble Judges were displayed in front of Court Room No. 1 vide Orders dated 10.12.2008 of Hon'ble the Chief Justice of India.

You are required to send Rs. 12/- either in cash or through Indian Postal Order or Money Order or Demand Draft drawn in favour of Registrar, Supreme Court of India for obtaining copy of the notings on movement of your present application including copy of orders of Hon'ble the Chief Justice of India and copy of

orders dated 10.12.2008 of Hon'ble the Chief Justice of India (containing 6 pages @ Rs. 2/- per page)."

Appellant Shri Agrawal then moved an appeal before Shri M.P. Bhadran, Registrar, SCI on 26-2-09 with the following plea:

"There is no logic in CPIO expressing inability to provide the required information without making any effort to compile the same. I, therefore, appeal that the learned CPIO may kindly be directed to provide me required information to point numbers 1 to 6 and 8 to 10 of my RTI petition after gathering information from the concerned one/s at Honourable Supreme Court."

In his order of 18-3-2009 appellate authority Shri M.P. Bhadran dismissed this appeal on the following ground:

"I find no reason to disagree with the reply given by the CPIO that since Supreme Court Registry does not deal with the matters pertaining to the Resolution, CPIO is not in a position to provide the desired information. That apart the information sought by the appellant on points 1 to 6 and 8 to 10 does not come within the ambit of Sections 2(F) and (j) of the Right to Information Act. I find no merit in this appeal and it is only to be dismissed."

Appellant Shri Agrawal's prayer before us in his second appeal is as below:

"Shri M. P. Bhadran's role as being First Appellate Authority is not proper because file notings reveal that he was an authority linked with CPIO's reply on the RTI petition. It is a well established fact that Decisive Authority cannot be Appellate Authority. File notings also reveal that Honourable Chief Justice of India also endorsed note for CPIO's reply to the RTI petition, thereby leaving no scope for argument that CPIO of Supreme Court is not in a position to provide the desired information. It was CPIO at Supreme Court who provided me a copy of important resolution of 'Restatement of Values of Judicial Life'. Therefore, it is but natural for an RTI petitioner to expect information on issues relating to the resolution passed by all the 22 Honourable judges of the Apex Court."

File No. CIC/WB/A/2009/0411

In this case Shri S.C. Agrawal's request before the CPIO, Shri Rajpal Arora, Addl. Registrar, SCI was for "*information together with relevant documents/ file notings, if any, on action taken on my letter dated 8.9.2008 addressed to Honourable Chief Justice of India Mr. Justice K. G. Balakrishnan Ji (copy of letter enclosed). In case, my said letter dated*

8.9.2008 is forwarded/ transferred to some other authority, kindly transfer this RTI petition to the CPIO there. Kindly attach file notings including those on movement of this RTI petition.”

To this Shri Agrawal received a response dated 6-2-09 from CPIO, Shri Rajpal Arora as follows:

“I write to say that your letter dated 8.9.2008 was placed before Hon’ble the Chief Justice of India on 10.9.2008 and as directed by Hon’ble the Chief Justice of India the same was filed.

Further, you are required to send RS. 4/- for obtaining two pages documents @ Rs. 2/- per page relating to noting on your present application either in cash or Indian Postal Order or Money Order or Demand Draft drawn in favour of Registrar, Supreme Court of India.”

Appellant Shri Agrawal then moved an appeal before Shri M.P. Bhadran, Registrar, SCI on 18.2.2009 with the following plea:

“But it seems that two page of file-notings on movement of my RTI Petition are not complete with copy of draft reply and approval of draft reply by concerned ones not enclosed. Also, file notings relating to my letter dated 8.9.2008 addressed to Honourable Chief Justice of India Mr. Justice K. G. Balakrishnan Ji being filed are not enclosed even though all these were specifically requested in my RTI petition dated 7.1.2009.”

In his order of 16-3-09 Shri M.P. Bhadran dismissed this appeal as information already provided as follows:

“It is pertinent to note the request made by the appellant as per his application dated 7.1.2009. As per application dated 7.1.2009 the appellant has made a request to provide him information together with relevant documents/ file noting, if any, on action taken on his letter dated 8.9.08 addressed to Hon’ble the CJI including file notings on movement of RTI petition. CPIO has already furnished the true copy of the file noting along with letter dated 14.2.2009. The file noting itself is self explanatory and there is no further information to be supplied by the CPIO. I find no merit in this appeal and it is only to be dismissed.’

Appellant Shri Agrawal’s prayer before us in his second appeal is as below:

”I appeal to Honourable Central Information Commission to kindly direct CPIO at Supreme Court to provide me complete file notings (1) on action taken on my letter dated 8.9.2008

addressed to Honourable Chief Justice of India Mr. Justice K. G. Balakrishnan Ji and (2) complete file notings on movement of RTI petition dated 7.1.2009 including also copy of draft reply and approval of draft reply on my RTI petition by concerned ones, buy now without any additional cost because I have already once paid the copy charges as per CPIO's demand. I had to unnecessarily bear fast in filing subsequent appeals because of insufficient and incomplete file notings provided by the CPIO. Honourable Mr. Justice S. Ravindra Bhatt of Delhi High court in the matter "Bhagat Singh vs. CIC (W. P. (C) No. 3114/ 2007) has also held that the Right to Information Act being a right based enactment is akin to a welfare measure and as such should receive liberal interpretation. It is prayed accordingly.'

File No. CIC/WB/A/2009/0530

In this case the information sought by Shri S.C. Agrawal through an application of 16-2-09 from CPIO, Shri Rajpal Arora, Addl. Registrar, SCI is as follows:

"Complete detail of complaints received against judges of Supreme Court and High courts received at supreme Court or by Honourable the Chief Justice of India from 1.10.2005 till date. Please also mention action taken by Supreme Court or by Honourable the Chief Justice on each of the complaint. Please also include file notings on every complaint, and also on movement of this RTI petition."

To this Shri Agrawal received a response dated 7-3-09 from CPIO, Shri Rajpal Arora as follows:

"I write to inform you that the complaints against Hon'ble Judges of the High Court or Supreme Court are not handled by the Registry. The complaints, if any, received in Supreme Court Registry against the Hon'ble Judges of the High Court or Supreme Court are sent to the office of Hon'ble the Chief Justice of India and details of such complaints are not maintained by the Registry. Since, such information is not held by or under the control of the Registry the CPIO, Supreme Court of India cannot accede to your request under the Right to Information Act, 2005.

You are required to send Rs. 8/- either in cash or through Indian Postal Order or Demand Draft drawn in favour of Registrar, Supreme Court of India for obtaining copy of the noting on movement of your present application including copy of orders of Hon'ble the Chief Justice of India on your application (containing 4 pages @ Rs. 2/- per page)."

Not satisfied, appellant Shri Agrawal then moved an appeal before Shri M.P. Bhadrans, Registrar, SCI on 16.3.2009 with the following plea:

“The learned CPIO vide Dy. No. 741/RTI/08-09/2008 dated 7.3.2009 expressed inability to provide information because according to him all such complaints are handled by Honourable the Chief Justice of India. Interestingly, the reply also indicates that there is some order from Honourable the Chief Justice of India on my this RTI application clearly establishing that office of Honourable the Chief Justice of India is approachable by the learned CPIO together required information as sought in my RTI petition. Otherwise also there is no logic in CPIO’s reply of terming Chief Justice of India and Supreme Court of India as authorities not related with each other. I appeal that the learned CPIO may kindly be directed to provide required information as sought in my RTI petition after gathering the same from office of Honourable the Chief Justice of India.’

In his order of 8-4-2009 Shri M.P. Bhadran dismissed this appeal on the following ground:

“The request of the appellant is to direct the CPIO to furnish the information sought by him after gathering the same from the office of Hon’ble the Chief Justice of India. I find no reason to disagree with the reply given by the CPIO. No information is held by the Registry and CPIO is not in a position to furnish the information sought by the appellant. There is no merit in this appeal and it is only to be dismissed.”

Appellant Shri Agrawal’s prayer before us in his second appeal is as below:

“I appeal that authorities at Supreme Court may kindly be directed to provide complete details of complaints against judges of Supreme Court and High courts received at Supreme court or by Honourable the Chief justice of India from 1.1.2005 till date including action taken by Supreme Court or by Honourable the Chief Justice of India on each of the complaint together with file notings on every complaint. Any other relief deemed fit in favour of the petition, may kindly be allowed.”

Vide our letter of September 8, 2009 we had issued notice for hearing of appeal u/s 19 of the RTI Act of the following seven appeal petitions:

“CIC/WB/A/2009/000001
CIC/WB/A/2009/000408
CIC/WB/A/2009/000410
CIC/WB/A/2009/000411
CIC/WB/A/2009/000529
CIC/WB/A/2009/000530
CIC/WB/A/2009/000735”

These were scheduled for hearing on 9th October, 2009. The hearings were further scheduled for 6th November, 2009 vide our letter of 6-10-09. However, on the very same day we had received a fax from Shri R.P. Arora, CPIO, SCI seeking adjournment as follows:

“I am directed to say that as we have filed appeal in the Delhi High Court against the judgment of the Learned Single Judge dated 2nd September, 2009 in Writ Petition No. 288 of 2009, it is requested to kindly adjourn all the above eight matters till the final disposal of the said appeal.”

We then received a further request from CPIO Shri R.P. Arora of SCI of October 22, 2009 submitting as follows:

“I am directed to say that as Letters Patent Appeal No. 501 of 2009 has been filed against the judgment of the Learned Single Judge dated 2nd September, 2009 in Writ Petition No. 288 of 2009 which is listed for final hearing before a larger Bench of three Hon’ble Judges in the Delhi High Court on 13th and 13th November, 2009 and the said matters are being listed upon giving reference of the Judgment in W. P. No. 288 of 2009 in his appeal to the Central Information Commission as mentioned in the earlier letter of even number dated 6.10.2009 of the undersigned, it is requested to kindly further adjourn all the above eight matters till the final disposal of the said appeal.”

Upon this we have received a e-mail dt. 27-10-09 from appellant referring to the adjournment request of CPIO, SCI a copy of which had been endorsed to him also raising the following points:

“Reasoning by CPIO at Supreme Court raises several law-points and aspects:

1. Can simply filing of an appeal (that too without getting any stay-order) in a case involving CIC verdict put complete RTI Act on hold?
2. Is filing an appeal at Division Bench against single-bench verdict equivalent to a refused stay-order by the higher bench.?
3. Can simply a mention of a writ-petition (288/2009) in a petition (CIC/WB/A/2008/000859) put all the eight petitions on hold indefinitely especially also when this mention of the writ-petition is only in one petition (CIC/WB/A/2008/000859) for which a separate notice for hearing is issued while combined notice for hearing for other seven petitions is different.
4. A division Bench of Honourable Supreme Court observed against adjournment-culture by mention that many a times petitioners seek stay-orders on filing a writ/ appeal, and drag the case for years with many a times ultimately losing the case even.

5. Central Information Commission has an admirable practice is not entertaining adjournment requests in otherwise has become a culture in our courts for which concern is being expressed by even those in judicial system.
6. Central Information Commission usually proceeds with hearing overlooking adjournment requests like was done in petition number CIC/AT/A/2008/736 in the matter (Subhash Chandra Agrawal vs. Department of Justice).”

Therefore, through our letter of 28-10-09 addressed to the CPIO, SCI they were informed that the request for adjournment has not been acceded to in view of an objection raised by the appellant Shri S.C. Agrawal. Subsequently, through a letter of 28-10-09 no copy of which was endorsed to respondent, Shri S.C. Agrawal has submitted as follows:

1. Can simply filing of an appeal (that too without getting any stay-order) in a case involving CIC verdict put complete RTI Act on hold?
2. Is filing an appeal at Division Bench against single-bench verdict equivalent to a refused stay-order by the higher bench.?
3. Can simply a mention of a writ-petition (288/2009) in a petition (CIC/WB/A/2008/000859) put all the eight petitions on hold indefinitely especially also when this mention of the writ-petition is only in one petition (CIC/WB/A/2008/000859) for which a separate notice for hearing is issued while combined notice for hearing for other seven petitions is different.
4. A division Bench of Honourable Supreme Court observed against adjournment-culture by mention that many a times petitioners seek stay-orders on filing a writ/ appeal, and drag the case for years with many a times ultimately losing the case even.
5. Central Information Commission has an admirable practice is not entertaining adjournment requests in otherwise has become a culture in our courts for which concern is being expressed by even those in judicial system.
6. Central Information Commission usually proceeds with hearing overlooking adjournment requests like was done in petition number CIC/AT/A/2008/736 in the matter (Subhash Chandra Agrawal vs. Department of Justice).
7. There are several issues of national importance in these petitions fixed for hearing, which may lose relevance if hearing is postponed.”

The appeal was then heard on 6-11-09. The following are present:

Appellants

Shri Subhash Agrawal.
Shri Prashant Bhushan, Advocate
Shri Pranav Sachdeva, Advocate

Respondents

Shri Rajpal Arora, CPIO, Supreme Court.
Shri Amit Anand Tiwari, Advocate, CPIO, Supreme Court.
Shri Devdutt Kamal, Advocate.

Shri Amit Anand Tiwari, Learned Counsel for respondent submitted that the two issues on which the Letter Patent Appeal (LPA) has been filed against the judgment of the Ld. Single Judge of 2-9-09 in W.P. No. 288/2009 focuses on the following two issues:

- (i) Whether information held by the CJI can be disclosed by the CPIO and deemed to be held by the CPIO under the definition of "Right to Information" u/s 2 (j).
- (ii) Whether the information held by the CJI has to be deemed to be in the public domain.

Both issues were strongly disputed by Learned counsel for appellant Shri Prashant Bhushan but submitted that the matter of whether the CJI is a public authority or not has been settled both at the level of Central Information Commission and at the level of Delhi High Court. This is not an issue that is being agitated in the LPA. He went on to describe the issue described by Ld. Counsel for respondent at (ii) above as absurd and a complete negation of the RTI Act. Ld. Counsel Shri Prashant Bhushan also submitted that should the decision in the LPA go against the CJI would this then be agitated in the Supreme Court and thereby debar all decisions under the RTI Act from disclosure by the CJI till that appeal keeps pending.

In our view the issue here is much simpler. Ld. Counsel for respondent has specifically pleaded that since the LPA No. 501/2009 had been listed for final hearing before a larger Bench of three Judges on 12th and 13th November, 2009 a decision at this stage could lead to further litigation involving public expenditure and inconvenience to all stakeholders. In this context he submitted a copy of the Order of the Division Bench of the High Court of Delhi of 7-10-09 in which the request for stay has not been pressed

and hence the application dismissed. However, to substantiate his contentions of the point above he highlighted the following from the synopsis and list of dates of LPA No. 501/09, which are as follows:

“Because the Learned Single Judge failed to appreciate that the ‘information’ regarding the declaration of assets by the Hon’ble Judges of the Supreme court sought for by the Respondent No. 1 was not covered under the Act and the Respondent had no ‘right’ to seek such information under Section 2 (j) of the Act.

Because the Learned Single Judge omitted to consider the specific contention of the appellant that information accessible under the Act has to be information in the ‘public domain.’”

Having taken into account the above arguments we were of the view that the position of this Commission has already been explicitly stated on the two issues agitated in the LPA. A decision of the DB of the High Court will help further delineate contours of the RTI Act 2005. It would, therefore, be wise to allow for a short adjournment to enable the learned justices of the High Court of Delhi, which include the Chief Justice to deliberate and pronounce on these issues. If the decision of the Delhi High Court upholds the stand of the Commission in this regard, all these appeals would automatically stand resolved. The hearing was therefore, adjourned to Monday the 16th day of November, 2009 at 4.00 p.m. which was further postponed to 20th November, 09. The matter was then again heard on 20-11-2009. The following are present.

Appellants

Shri Mayank Mishra, Advocate
Shri Subhash Agrawal.
Shri Pranav Sachdeva, Advocate

Respondents

Shri Rajpal Arora, CPIO, Supreme Court.
Shri Devadutt Kamat, Advocate.
Ms. Priyanka Telang, Advocate.
Shri Nitin Lonkar, Advocate.

It was reported that the hearing scheduled by the Division Bench of the High Court of Delhi has indeed been held but judgment had been reserved. Learned counsel for appellant Shri Mayank Mishra submitted that the only issue pending before the Full Bench is the question of in-house procedure.

The issue of the jurisdiction of the RTI being comprehensive and hence including the office of Chief Justice of India stands conceded. Learned counsel for respondents Shri Devadatt Kamat submitted that he is not denying that the Chief Justice of India is a public authority. Nevertheless it is his case that information of a certain kind is not information open to access in the definition of Right to Information provided in Section 2 (j) even though, it may come under the broader definition of information u/s 2 (f). The appeals were, therefore, looked at from the above points of view.

In these cases it is conceded by appellant that the information sought in file Nos. **CIC/WB/A/2009/00408**, **CIC/WB/A/2009/00410** and **CIC/WB/A/2009/00530** all relate to in-house procedure, which is the information the disclosability of which under the RTI is the pointed issue pending a decision before the High Court. Therefore, hearing in all these three cases requires to be adjourned.

In file Nos. **CIC/WB/A/2009/001**, **CIC/WB/A/2009/00411** and **CIC/WB/A/2009/00735** the information sought and held by the SCI has been provided except the file noting. CPIO Shri Rajpal Arora, Addl. Registrar submitted that in these cases there is no file noting and the information sought by appellant has, in fact, been provided to the extent that it is held by the office of Supreme Court including the office of Chief Justice of India.

In file No. **CIC/WB/A/2009/00529** Shri Devadatt Kamat submitted that the information sought in this case cannot be disclosed in light of Article 74 of the Constitution read with section 2 (j) and indeed the exemption provided from disclosure under Sections 8 (1) (e) and (j). In this matter, however, learned counsel for appellant Shri Mayank Mishra submitted that this issue had been repeatedly discussed in the Full Bench which is of the Central Information Commission, namely, in File Nos. **CIC/WB/A/2008/208**, **CIC/WB/A/2008/00426** and **CIC/AT/A/2008/00736** in which the Commission has repeatedly taken the decision that such information is disclosable. To allow time to learned counsel for respondent Shri Devadatt Kamat to further develop his arguments for which he was not fully prepared in the present

hearing, the hearing in this case is adjourned to 23rd November, 2009 at 5.00 p.m.

This then leaves only file No. . **CIC/WB/A/2009/00859** as being open to a decision in this hearing. In this file the plea of learned counsel for respondent Shri D.D. Kamat is that the information sought cannot be deemed to be not 'held' or 'under the control' of the SCI. He also submitted that the information sought is part of in-house procedure of the office of Chief Justice of India. To be considered as "held" or "under the control" of the Supreme Court of India, these words have to be interpreted in terms of the basic structure of the Indian Constitution. In this context he invited our attention to the following ruling from the decision of the Supreme Court in **N. Kannadasan vs. Ajoy Khose (2009) 7 SCC** as follows:

"71. Independence and impartiality of judiciary is a basic feature of the Constitution. Constitutionalism envisages that all laws including the constitutional provisions should be interpreted so as to uphold the basic feature of the Constitution."

Shri Devadatt Kamat has gone on to quote from a judgment of the Supreme Court in **Velamuri Venkata Sivaprasad Vs. Kothuri Venkateswarlu (2000) 2 SCC** which deals with Hindu Succession Act 1956, in particular Section 14, as follows:

"The legislation of 1956, therefore, ought to receive an interpretation which would be in consonance with the wishes and desires of the framers of our Constitution. We ourselves have given this Constitution to us and as such it is a bounden duty and an obligation to honour the mandate of the Constitution in very sphere and interpretation which would go in consonance therewith ought to be had without any departure there from."

In this context he argued that under the Constitution, the Judges are to be given an exalted status. He has, therefore, quoted **C. Ravichandran Iyer Vs. Justice A.M. Bhattacharjee in which K. Ramaswamy. J.** has ruled on why rule of law and judicial independence needs to be preserved:

"The diverse contentions give rise to the question whether any Bar Council or Bar Association has the right to pass resolution against the conduct of a Judge perceived to have committed misbehaviour and, if so, what is its effect on independence of the judiciary. With a view to appreciate the contentions in their proper perspective, it is necessary to have at

the back of our mind the importance of the independence of the judiciary. In a democracy governed by rule of law under written Constitution, judiciary is sentinel on the qui vive to protect the fundamental rights and to poise even scales of justice between the citizens and the State or the States inter se. Rule of law and judicial review are basic features of the Constitution. As its integral constitutional structure, independence of the judiciary is an essential attribute of rule of law. In S.P. Gupta vs. Union of India [(1981) Supp. SCC 87] in paragraph 27, this Court held that if there is one principle which runs through the entire fabric of the Constitution it is the principle of the rule of law, and under the Constitution it is the judiciary which is entrusted with the task of keeping every organ of the State within the limits of the law and thereby making the rule of law meaningful and effective. Judicial review is one of the most potent weapons in the armoury of law. The judiciary seeks to protect the citizen against violation of his constitutional or legal rights or misuse or abuse of power by the State or its officers. The judiciary stands between the citizen and the State as a bulwark against executive excesses and misuse or abuse of power by the executive. It is, therefore, absolutely essential that the judiciary must be free from executive pressure or influence which has been secured by making elaborate provisions in the Constitution with details. The independence of judiciary is not limited only to the independence from the executive pressure or influence; it is a wider concept, which takes within its sweep independence from any other pressure and prejudices. It has many dimensions, viz. fearlessness of other power centres, economic or political, and freedom from prejudices acquired and nourished by the class to which the judges belong.”

He has, therefore, concluded with the words of K. Ramaswamy J. in the above case, which are as follows:

The arch of the Constitution of India pregnant from its Preamble, Chapter III [Fundamental Rights] and Chapter IV [Directive Principles] is to establish an egalitarian social order guaranteeing fundamental freedoms and to secure justice - social, economic and political - to every citizen through rule of law. Existing social inequalities need to be removed and equality in fact is accorded to all people irrespective of caste, creed, sex, religion or region subject to protective discrimination only through rule of law. The Judge cannot retain his earlier passive judicial rule when he administers the law under the Constitution to give effect to the constitutional ideals. The extraordinary complexity of modern litigation requires him not merely to declare the rights of citizens but also to mould the relief warranted under given facts and circumstances and often command the executive and other

agencies to enforce and give effect to the order, writ or direction or prohibit them to do unconstitutional acts. In this ongoing complex of adjudicatory process, the role of the Judge is not merely to interpret the law but also to lay new norms of law and to mould the law to suit the changing social and economic scenario to make the ideals enshrined in the Constitution meaningful and reality. Therefore, the Judge is required to take judicial notice of the social and economic ramification, consistent with the theory of law. Thereby, the society demands active judicial roles, which formerly were considered exceptional but now a routine. The Judge must act independently, if he is to perform the functions as expected of him and he must feel secure that such action of him will not lead to his own downfall. The independence is not assured for the Judge but to the judged. Independence to the Judge, therefore, would be both essential and proper. Considered judgment of the court would guarantee the Constitutional liberties which would thrive only in an atmosphere of judicial independence. Every endeavour should be made to preserve independent judiciary as a citadel of public justice and public security to fulfil the constitutional role assigned to the Judges.”

Learned counsel Shri Devadatt Kamat has then quoted from Shri P. Ramanatha Aiyar’s Advanced Law Lexicon Volume II to define the word “held” as follows:

“The word ‘held’ connotes the existence of a right or title in the hold. Pheku Chamar v. Harish Chandra, AIR 1953 ALL 406, 407, Kailash Rai v. jai Jai Ram, AIR 1973 SC 893, 897. (UP Zamindari Abolition and Land Reforms Act (1 of 1951), S.9).

“The word ‘held’ means lawfully held, to possesses by legal title,” Budhan Singh v. Babi Bux, AIR 1970 SC 1880 at 1884.”

Shri Devadatt Kamat has also quoted from Volume 1 of the Advanced Law Lexicon on the word “control” as below:

“The expression ‘control’ connotes power to issue directions regarding how a thing may be done by a superior authority to an inferior authority. K. S. Ramamurthy Reddiar vs. Chief Commissioner, Pondicherry, AIR 1963 SC 1464.”

In support he has invited our attention to **Kailash Rai vs. Jai Jai Ram (1973) 1 SCC** announced on 22nd January, 1973 in which Hon’ble Vaidialingam, J. has held as below:

“In interpreting expression, this Court in Budhan Singh and Another v. Nabi Bux and Another has held that it means lawfully held. This Court has further observed that:

‘According to Webster’s New Twentieth Century Dictionary the word ‘held’ is technically understood to mean to possess by legal title. Therefore, by interpreting the word ‘held’ as ‘lawfully held’ there was no addition of any word to the section. According to the words of Section 9 and in the context of the scheme of the Act, it is proper to construe the word ‘held’ in the section as ‘lawfully held’.”

In brief, therefore, the argument of learned counsel for respondent has been that the information sought in all these matters cannot be deemed either to be held or under the control of Chief Justice in legal terms. Learned counsel for appellant Shri Mayank Mishra has, on the other hand, submitted that what appellant Shri S.C. Agrawal has sought is not concerning the conduct of Justices of the High Court but that of the Union Minister against whose attempt to influence Hon’ble Mr. Justice Reghupati has made complaint. He, however, conceded that the questions 7 and 8 are concerned with the conduct of Justices.

DECISION NOTICE

As discussed above there are no file notings as sought in file Nos. **CIC/WB/A/2009/0001**, **CIC/WB/A/2009/0411** and **CIC/WB/A/2009/0735**, hence the information sought is that already provided by CPIO Shri Rajpal Arora being the information held by the SCI. **These three appeals are therefore, dismissed.**

On the other hand the issue in Appeal Nos. **CIC/WB/A/2009/0408**, **CIC/WB/A/2009/0410** and **CIC/WB/A/2009/0530** concerns disclosure of information of in-house functioning of the office of the CJI, which is the subject of appeal before the Division Bench of the High Court of Delhi. For this reason any decision in these three cases at this stage could be singularly inappropriate and the hearing is adjourned to **16th December, 2009 at 4.00 p.m.**

With regard to the appeal **No. CIC/WB/A/2009/00859**, however, we are not convinced that the disclosure of information sought by appellant Shri S.C. Agrawal would in any way infringe on the constitutional stature of Hon'ble Justices of the High Court or indeed in any way diminish the exalted status that we readily concede is granted to him in a democracy such as ours. The implication in this appeal is that, in fact, there has been an attempt to diminish that exalted status by unseemly pressure and the information sought is a means to expose such an unworthy attempt, if any. Besides, the argument constructed so painstakingly by learned counsel for respondent Shri Devadatt Kamat to substantiate his plea that information sought cannot be deemed to be held or under the control of the SCI has also failed to convince because the different rulings marshalled by learned counsel referred repeatedly to matters of property and property records, not questions of general correspondence which would constitute general information. Should the plea of learned counsel Shri Devadatt Kamat be accepted such a decision would have devastating effect on the very foundation of the principles of transparency and accountability of which the Right to Information Act 2005 rests firm. Learned counsel seems to have made an effort to make a distinction between the definitions of information as clearly mandated u/s 2 (f) and the Right to Information defined in Section 2 (j). On this specific issue, however, we have the decision of the Delhi High Court in **WP (C) 7265/2007 Poorna Prajna Public School vs. Central Information Commissioner & Ors.** decided on 25.9.'09 in which Hon'ble Shri Sanjeev Khanna J. has examined this very issue and come to the conclusion that there can be no such fine dividing line. *"It is well established"* the learned Justice has held, *"that an interpretation which renders another provision or part thereof redundant or superfluous should be avoided."*¹ Under the circumstances this appeal is allowed. The information sought by appellant Shri S.C. Agrawal in respect of all questions except question Nos. 7 and 8 which are indeed questions on in-house procedure apart from questioning the conduct of Justices of the High Court in which, in our view, a response could impinge upon the exalted status granted to such Justices, will now be provided to

¹ Para 8 of WP© No. 7625/2007

appellant Shri S.C. Agrawal within 15 working days of the date of receipt of this decision notice. There will be no costs.

Announced in the hearing in respect of all files save File No. **CIC/WB/A/2009/00859**. The Decision on the latter is announced in open chamber this 24th day of November 2009. Notice of this decision be given free of cost to the parties.

(Wajahat Habibullah)
Chief Information Commissioner
24-11-2009

Authenticated true copy. Additional copies of orders shall be supplied against application and payment of the charges prescribed under the Act to the CPIO of this Commission.

(Pankaj K.P. Shreyaskar)
Joint Registrar
24-11-2009