

SUPREME COURT OF INDIA

Aseer Jamal

Vs.

Union of India

WP(Civil)No.137 of 2018

(Dipak Misra,CJI., A.M.Khanwilkar and Dr.D.Y.Chandrachud,JJ.,)

27.09.2018

JUDGMENT

Dipak Misra,CJI.,

1. Almost a century back, Nobel Laureate T.S. Eliot had disenchantingly written, “Where is the wisdom we have lost in knowledge? Where is the knowledge we have lost in information?” Though the content of the statement cannot be said to have lost its fragrance or flavour, yet today, information has become a strong sense of power. Right to information has been treated as a right to freedom of speech and expression as contained in Article 19(1)(a) of the Constitution of India. The right to acquire and to disseminate information has been regarded as an intrinsic component of freedom of speech and expression, as stated in *Secretary, Ministry of Information & Broadcasting, Government of India and others v. Cricket Association of Bengal and others.*¹ and *People’s Union for Civil Liberties and another v. Union of India and others.*²

2. Having stated about the right to information, we would advert to the assertions made in the writ petition. It is set forth in the writ petition that India, which is a vast country having large population, has few millions of illiterate adults and certain States, as per the 2011 Census, have more illiterates.

3. Referring to Section 6(1) of the Right to Information Act, 2005 (for brevity, „the Act), it is urged that the illiterate persons and the visually impaired persons or persons afflicted by other kinds of disabilities are not in a position to get the information. It is contended that the provision contained in Section 6 suffers from unreasonable classification between visually impaired and visually abled persons and thereby invites the frown of Article 14 of the Constitution. It is further contended that certain provisions of the Act are not accessible to orthopaedically impaired persons, persons below the poverty line and persons who do not have any access to the internet. Though in the petition, it has been asseverated as regards the violation of Article 14 of the Constitution, yet the prayer is couched in a different manner and we are obliged to say so because we feel that there is no need or necessity to deal with the constitutional validity of Section 6 of the Act. In fact, it is further necessary to mention

that in the course of hearing, the prayer was centered on getting the reliefs, namely, to direct the Union of India, the States and the Union Territories to provide an effective machinery for the enforcement of the fundamental right to have access to information of illiterate citizens and to provide effective machinery to visually impaired persons and such impaired persons who are unable to have access to the internet. That being the fact situation, we sought the assistance of Mr. K.K. Venugopal, learned Attorney General for India in the matter.

4. We have heard Mr. Aseer Jamal, the petitioner, who has appeared in-person and Mr. K.K. Venugopal, learned Attorney General for India. Though the chart prepared by Mr. Venugopal indicates the objections and the response, yet we intend to deal with it in a holistic manner.

5. The Statement of Objects and Reasons of the Act reads as follows:-

"An Act to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto. WHEREAS the Constitution of India has established democratic Republic;

AND WHEREAS democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed;

AND WHEREAS revelation of information in actual practice is likely to conflict with other public interests including efficient operations of the Governments, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information;

AND WHEREAS it is necessary to harmonise these conflicting interests while preserving the paramountcy of the democratic ideal; Now THEREFORE, it is expedient to provide for furnishing certain information to citizens who desire to have it."

6. Section 2(j) of the Act deals with "right to information", which reads thus:-

“(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”

7. Section 6 of the Act that deals with ‘request for obtaining information’ stipulates as under :-

"6. Request for obtaining information.— (1) A person, who desires to obtain any information under this Act, shall make a request in writing or through electronic means in English or Hindi or in the official language of the area in which the application is being made, accompanying such fee as may be prescribed, to—

(a) the Central Public Information Officer or State Public Information Officer, as the case may be, of the concerned public authority;

(b) the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, specifying the particulars of the information sought by him or her:

Provided that where such request cannot be made in writing, the Central Public Information Officer or State Public Information Officer, as the case may be, shall render all reasonable assistance to the person making the request orally to reduce the same in writing.

(2) An applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him.

(3) Where an application is made to a public authority requesting for an information,—

(i) which is held by another public authority; or

(ii) the subject matter of which is more closely connected with the functions of another public authority, the public authority, to which such application is made. shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer:

Provided that the transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application.”

8. Mr. Venugopal, learned Attorney General, has emphasized the proviso to Section 6(1) to highlight that it is obligatory on the part of the Central Public Information Officer or State Public Information Officer to render all reasonable assistance to the persons making the request orally to reduce the same in writing. As we understand from the said proviso, it will be the duty of the officer to listen to the persons and to reduce it in writing and process the same.

9. Section 6(3) of the Act takes care of the apprehension of the persons for whose cause the petitioner espouses, by making the provision pertaining to appropriate competent public authority. On a careful reading of the same, we do not find that there can be any difficulty for any person to find out the public authority as there is a provision for transfer.

10. As far as the grievance relating to visually impaired persons is concerned, as stated earlier, assistance has to be rendered under Section 6(1) of the Act to the persons who are unable to write or have difficulty in writing. Mr. K.K. Venugopal has brought to our notice that several States provide information in Braille since the year 2012. Every time the authority receives an RTI application seeking information in Braille, it prepares a reply in the printed format and forwards it to the National Institute for the Visually Handicapped where it is converted to Braille. The visually impaired citizens of Bihar were the first in the country to get copies under the Right to Information (RTI) Act and the Rules made by the State Government for its implementation in Braille script. Audio files are also being prepared.

11. From the chart filed by Mr. Venugopal, it is vivid that several hotline numbers providing toll free access to information are available on the RTI website. Furthermore, a help desk is also available for any query or feedback related to the portal. The contact number is 011-24622461.

12. The next thing that requires to be emphasized upon is the plight of the people who are below the poverty line. It is useful to mention that in exercise of the powers conferred by Section 27 of the Act, the Central Government has framed a set of rules, namely, the Right to Information Rules, 2012. Rules 3, 4, 5 and 6 of the said Rules read as follows:-

“3. Application Fee.—An application under sub-section (1) of Section 6 of the Act shall be accompanied by a fee of rupees ten and shall ordinarily not contain more than five hundred words, excluding annexures, containing address of the Central Public Information Officer and that of the applicant:

Provided that no application shall be rejected only on the ground that it contains more than five hundred words.

4. Fees for providing information.— Fee for providing information under sub-section (4) of Section 4 and sub-sections (I) and (5) of Section 7 of the Act shall be charged at the following rates, namely :—

- (a) rupees two for each page in A-3 or smaller size paper;
- (b) actual cost or price of a photocopy in large size paper;
- (c) actual cost or price for samples or models;
- (d) rupees fifty per diskette or floppy;

(e) price fixed for a publication or rupees two per page of photocopy for extracts from the publication;

(f) no fee for inspection of records for the first hour of inspection and a fee of rupees 5 for each subsequent hour or fraction thereof; and

(g) so much of postal charge involved in supply of information that exceeds fifty rupees.

5. Exemption from Payment of Fee.— No fee under rule 3 and rule 4 shall be charged from any person who, is below poverty line provided a copy of the certificate issued by the appropriate Government in this regard is submitted alongwith the application.

6. Mode of Payment of fee.— Fees under these rules may be paid in any of the following manner, namely:—

(a) in cash, to the public authority or to the Central Assistant Public Information Officer of the public authority, as the case may be, against a proper receipt; or

(b) by demand draft or bankers cheque or Indian Postal Order payable to the Accounts Officer of the public authority; or

(c) by electronic means to the Accounts Officer of the public authority, if facility for receiving fees through electronic means is available with the public authority.”

13. Rule 5 takes care of the situation that has been highlighted by the petitioner. If an applicant belongs to below poverty line (BPL) category, he/she has to submit a proof in support of his/her claim that he/she belongs to the said category and as far as the mode of payment is concerned, various modes are provided and the criticism that it is restricted is unacceptable.

14. In view of the obtaining situation, as has been brought out by the learned Attorney General for India, as presently advised, we are disposed to think that no further direction needs to be issued except granting liberty to the petitioner to submit a representation to the competent authority pointing out any other mode(s) available for getting information under the Act. If such a representation is submitted, the same shall be dealt not only with sympathy but also with concern and empathy. We say so as differently abled persons, which include visually impaired persons, should have the functional facility to receive such information as permissible under the Act. They should not be deprived of the benefit of such a utility. As indicated in the beginning, the information makes one empowered. Additionally, we think it appropriate to ask the authorities to explore any kind of advanced technology that has developed in the meantime so that other methods can be introduced. We are absolutely sure that if the petitioner would point out, the cognizance of the same shall be taken. We are also certain that the authority shall, with all sincerity and concern, explore further possibilities with the available on-line application/mechanism.

15. The writ petition is, accordingly, disposed of. There shall be no order as to costs.

Judgment Referred.

¹(1995) 2 SCC 0161

²(2004) 2 SCC 0476