

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 7187 of 2014

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR.JUSTICE N.V.ANJARIA

1	Whether Reporters of Local Papers may be allowed to see the judgment ?	Yes except paras 3 to 4.1
2	To be referred to the Reporter or not ?	
3	Whether their Lordships wish to see the fair copy of the judgment ?	No
4	Whether this case involves a substantial question of law as to the interpretation of the Constitution of India or any order made thereunder ?	No

VINUBHAI HARIBHAI PATEL (MALAVIA)....Petitioner(s)

Versus

ASSISTANT COMMISSIONER OF INCOME TAX & 7....Respondent(s)

Appearance:

MR NM KAPADIA, ADVOCATE for the Petitioner(s) No. 1

CORAM: HONOURABLE MR.JUSTICE N.V.ANJARIA

Date :16/07/2015

CAV JUDGMENT

In the present petition filed under Articles 226 and 227 of the Constitution, the petitioner has prayed to set aside order dated 26.02.2013 passed by the Central Information Commissioner-respondent No.3 herein. The petitioner has further prayed for setting aside order dated 22.09.2009 as also order dated 14.12.2010 passed by respondent No.1 herein-Public

Information Officer and respondent No.2-appellate authority under the Right to Information Act, 2005, respectively. A direction is also prayed for against respondent Nos.1 and 2 requiring them to supply information to the petitioner demanded by the petitioner.

2. The impugned order dated 26.02.2013 passed by the Central Information Commissioner in its relevant and material part reads as under,

"6. The Hon'ble Supreme Court in the case of Girish Ramchandra Deshpande dated October 3, 2012 had observed that Income Tax Returns was personal information and exempt from disclosure u/s 8(1)(j) of the RTI Act unless it was felt that a larger public interest was served. In the instant case, no such larger public interest has been shown. The ratio of the above case applies to the present appeal. The Commission concurs with the decision of the AA and the appeal is disposed of."

3. It appears that the petitioner filed an application dated 01.09.2010 under the Right to Information Act, 2005 before the Public Information Officer of the office of the Commissioner of Income Tax, Surat, seeking certain information which included copies of income-tax returns of private respondent Nos. 4 to 8 herein. The petitioner in his application under Section 6 of the Right to Information Act, 2005 (hereinafter referred to as "the RTI Act") stated about following details of information asked for,

"Kindly find enclosed herewith the press cutting regarding the income tax violation by Tarunkumar Kantilal Raval, resident of 50, Adarsh Society, Athwa Lines, Surat and Bhadreshkumar Chimanlal Kagalwala, resident of 50, Adarsh Society, Athwa

Lines, Surat. Kindly find enclosed herewith the relevant documents regarding three different proceedings-(1) regarding becoming the agriculturist on the basis of the Will of one Lalabhai Kikabhai in the year 1981 by aforesaid two persons and other associates namely Harishchandra Chhaganlal Jani, Resident of 6/D Rudraksh Apartment, Opp. Arihant Complex, Parle point, Surat; Pankajbhai Harishchandra Jani, Resident of 6/D Rudraksh Apartment, Opp. Arihant Complex, Parle Point, Surat; Pravinchandra Thakorlal Dalal, resident of 10/B Rudraksha Apartment, Near Hotel Holiday Inn, Athwa Lines, Surat; Balkrishna Thakore; (2) becoming the agriculturist on the basis of the Will of one Mansinh Dharsinh after the year 1977 and purchasing the agricultural land at village: Kosamba in the year 1988. It is claimed by all these people that they were agriculturists and were doing the agriculture activities right from their birth which is a claim made before the Civil Court in Probate Application No. 21 of 1991. However, before the Revenue Authorities their claim was based on the Will of the deceased Lallubhai in the year 1981 wherein no such claim of being the agriculturists or holding the agriculture land from the childhood was made. In the order by the Additional Mamlatdar and Krushi Panch in Ganot Case No. 94 of 2003 they claimed to be the agriculturists and account holder right from the birth and even claimed that their father and forefather were also agriculturists. Thus, everywhere there are different false claims made before the different authorities and fraud is played by all these people upon the Revenue Authorities as well as the Gujarat Revenue Tribunal. From the press reports, it is very clear that there is serious violation of Income Tax Act on the part of these people and if the following information is supplied to the applicant, such fraudsters will be further exposed and their scandal in violation of the various laws of the State Government and Central Government may be surfaced.

[1] It is requested to supply the copies of the income tax returns with all annexures regarding all aforesaid persons namely Tarunkumar Kantilal Raval, Bhadreshkumar Chimanlal Kagalwala, Harishchandra Chhaganlal Jani, Pankajbhai Harishchandra Jani, Pravinchandra Thakorlal Dalal and Balkrishna Thakore from the year 1980 to 2010 so that whether these people were holding any agriculture land as claimed before the Revenue Authority can be ascertained,

whether they had any agricultural income or not can be ascertained, whether on the basis of the so-called bogus Wills how many agricultural lands purchased by such non-agriculturists, were sold by them in violation of the provisions of the Bombay Tenancy and Agricultural Lands Act can be ascertained, whether these persons have shown any agricultural income so as to avoid the payment of income tax, on their business income.

[2] Kindly note that the provisions of Sections 8,9,11 and 24 are not attracted in the present case. If the information is supplied it will expose the misdeeds committed by the aforesaid persons before the Revenue Authorities and before the Income Tax Authority and, therefore, the supply of the information would be in public interest also. There is no question of any harm in disclosing the information to such people inasmuch as the public interest in disclosure outweighs the harm to the protected interest of such individual persons. According to my knowledge, the information provided in the form of income tax returns is not treated as confidential by the aforesaid parties but even if it is treated as confidential the same can be given by your office under Section 11 of the Act. At the instance of Tarunkumar Kantilal Raval and his associates I am falsely involved in criminal cases and my human rights are violated and, therefore even according to Section 24 of the Act information requires to be supplied and under first proviso of sub section(1) of section 7, the information is required to be supplied within 48 hours of the receipt of this request."

3.1 It appears that between the petitioner and private respondents there simmered a property dispute and proceedings before the revenue authority with regard to the property bearing survey No.64, Block No. 160 situated at Village Bharthana Taluka Choryasi District Surat, have been pending. The facts relating to the kind, nature and contours of the said civil dispute could be gathered from the pleadings of Special Civil Application No. 14842 of 2010 filed by this very petitioner wherein private respondents

herein are also party respondents. Copy of said Special Civil Application NO. 14842 of 2010 is made part of the record of this petition. It appears that the private respondents have claimed that they have become the owners of the agricultural land being survey No.64, Block No.160 of Village Bharthana, Taluka Choryasi, Surat, by virtue of Will executed by deceased Lalabhai Kikabhai who expired on 28.06.1981 and entry in the revenue record was effected in favour of the respondents. The Will was registered on 05.09.1981 after 2½ years from the date of death of Lalabhai. The present petitioner has disputed the said Will. The proceedings before the revenue authority are afoot between the parties. The entry No.690 which was recorded pursuant to the Will came to be upheld by the Mamlatdar, but the Deputy Collector cancelled the same.

3.2 In the aforementioned Special Civil Application No.14842 of 2010 preferred by the petitioner, the pleadings set out in detail reveal the dispute between the petitioner and the respondents with regard to the said Will. In the said petition, the petitioner has prayed for a direction to the respondent authorities to hold inquiry in the matter of purchase of different agricultural lands by the private respondents and to consider petitioner's various applications made requesting for investigation. As noted above, the case of the petitioner is about creation of fraudulent documents by the private respondents and regarding purchase of agricultural land since 1977 till date in the different villages of Surat on the basis of a

Will.

3.3 Coming back to the controversy, respondent No.1-Public Information Officer denied the information on the ground that Section 8(1)(h) of the RTI Act exempted the information asked for by the petitioner. The petitioner preferred first appeal before the appellate authority-Joint Commissioner of Income Tax. The first appellate authority taking view that the information asked for was in respect of third parties, issued notice for their objection or consent for giving the information. All the private parties about whom the information was sought for, attended the proceedings and filed written submissions and objected to parting of the information in favour of the petitioner. The first appellate authority thereafter dismissed the appeal on the ground that the case falls within the purview of Section 8(e) of the Act. It appears that against the said order of the first appellate authority, the petitioner had filed Special Civil Application No. 3275 of 2011. The same was withdrawn as per order dated 11.03.2011 for approaching the appropriate authority. The petitioner thereafter preferred second appeal under Section 9 of the Act before the Central Information Commission. It is the order of the Central Information Commission dated 26.02.2013, which is the subject matter of consideration having been impugned in this petition.

4. Learned advocate Mr. N. M. Kapadia for the petitioner assailed the impugned order on the ground that it was unreasoned order. According to him, it was

cryptic in nature. He relied on decision of the Supreme Court in **Namita Sharma vs. Union of India [2013(1) SCC 745]**, in particular paragraphs 98, 99 and 100 thereof, to pinpoint the importance of providing reasons in the order which may be passed by the judicial or quasi-judicial forum. It was submitted that the Central Information Commission being the quasi-judicial commission, was duty bound to pass reasoned order and the impugned order being non-speaking one, was liable to be quashed on that ground itself, submitted learned advocate for the petitioner.

4.1 Learned advocate for the petitioner further submitted that authorities have relied on different grounds to deny the information. It was submitted that the Public Information Officer did not accept the request for furnishing information on the ground that the information requested for was exempted under Section 8 of the Right to Information Act; whereas the first appellate authority took it on a different ground and rejected the appeal. Learned advocate in the next submitted that the information asked for was the copies of Income-Tax Returns and furnishing of which had a public interest aspect. According to learned advocate, the private parties whose details and the copies of Returns were asked for, had committed illegality in getting declared for themselves a status of agriculturists. He submitted that from the information, if supplied, fraudulent conduct of the said parties would come to fore. It was therefore submitted by learned advocate that respondent No.3 wrongly applied decision of the

Supreme Court in **Girish Ramchandra Deshpande vs. Central Information Commissioner [(2013) 1 SCC 212]** to dismiss the appeal of the petitioner. It was the submission of learned advocate for the petitioner that the information asked for by the petitioner herein, would have, when supplied, served the public interest, therefore even if the information was relating to the private parties, it was not exempted from being supplied under Section 8(j) of the Act as in disclosure thereof, there was an overriding public interest. Learned advocate therefore submitted that respondent No.3-Central Information Commissioner erred in appreciating the facts of the case vis-à-vis the ratio of **Girish Ramchandra Deshpande (supra)** to hold that there was no larger public interest to be served.

5. As seen above, the information in the present case asked for by the petitioners pertains to private parties, namely Tarunkumar Kantilal Raval, Bhadresh Chimanlal Kagadwala, Harish Chhaganlal Jani, Pankajbhai Harishchandra Jani and Pravinchandra Thakorebhai Dalal. The petitioners asked for copies of Income-Tax Returns together with the annexures of the said parties for the period from 1980 to 2010. The said information was demanded by the petitioner on the plea that the private parties had conducted themselves illegally and fraudulently, that they had acquired a status of agriculturists for themselves on the basis of a Will of one Lalabhai which was not genuine, and that they had raised different pleas in different proceedings initiated by them before the different authorities for asserting and claiming the status as

agriculturists. As was also noticed that Special Civil Application No.14842 of 2010 was filed against the said private parties seeking prayers to hold inquiry and investigate in respect of the orders passed by the Revenue Tribunal in favour of the said private parties. The petitioner's say while demanding the information in question before the information authorities was that disclosure of the information demanded would help to ascertain whether those parties had shown any agriculture income in their Income-Tax Returns and thereby avoided paying the income-tax.

5.1 Section 8 of the Right to Information Act, 2005 enlists categories of information which are exempted from disclosure and for which the authorities are not under obligation to part with. Clause (j) of Section 8 is with regard to the information which is personal information in nature. The relevant provision of Section 8 is extracted herein.

"8. Exemption from disclosure of information.--(1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen-

(e) information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;

(g) information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;

(j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may

be, is satisfied that the larger public interest justifies the disclosure of such information:"

5.2 From the above provision, it is clear that the information which is personal information having no relationship with any public activity and having no nexus with public interest, the information which would result into unwarranted invasion of privacy, are not liable to be disclosed, the caveat being if the Information Officer/Appellate Authority is satisfied that in disclosure of such information larger public interest would be served. In other words, if larger public interest justifies the disclosure of personal information, the same may be allowed to be disclosed and the same may be furnished.

5.3 The Apex Court in **Girish Ramchandra Deshpande (supra)** had an occasion to consider the scope, purport and import of Section 8(1)(j). In that case, the petitioner had sought for copies of memos, show cause notices and the letter of censure/punishment awarded to the government officer by his employer, the details of movable and immovable properties of the government officer, his investments, loans and borrowings from banks and other financial institutions, gifts issued by him and his family members at his son's marriage, etc. This information had found place in the Income-Tax Returns. The Supreme Court treated it to be a personal information exempted from disclosure under Section 8(1)(j) of the Act.

5.3.1 The Apex Court stated,

"The performance of an employee/officer in an

organization is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression "personal information", the disclosure of which has no relationship to any public activity or public interest. On the other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual. Of course, in a given case, if the Central Public Information or the State Public Information Officer or the appellate authority is satisfied that the larger public interest justifies the disclosure of such information, appropriate orders could be passed but the petitioner cannot claim those details as a matter of right." (Para 12)

5.3.2 It was held,

"The details disclosed by a person in his income tax returns are "personal information" which stand exempted from disclosure under clause (j) of Section 8(1) of the RTI Act, unless involves a larger public interest and the Central Public Information Officer or the State Public Information Officer or the appellate authority is satisfied that the larger public interest justifies the disclosure of such information." (Para 13)

6. Now, turning to the facts of the present case, it is evident that the kind and nature of the information demanded by the petitioner clearly falls within the expression "personal information". The personal character of the information demanded in the nature of Income-Tax Returns of the private parties to get disclosure about the payment of tax by them which was again in order to know about their status as agriculturists declared to be so by the authorities in the legal proceedings, could be indeed said to be personal. It was in the background of litigation

between the petitioner and the said private persons relating to their property rights wherein the Will in favour of private parties was disputed and the disputes of civil nature were being agitated before the forum concerned and the court. This information being personal in nature, could not be claimed as a matter of right by the petitioner, rather they were clearly exempted information under Section 8(1)(j). The contention of larger public interest justifying the disclosure does not exist. In disclosing the said information asked for by the petitioner relating to the private parties, there was no element of public interest to be sub-served. The information was personal information relating to third parties. The attendant facts and circumstances and the litigation between the petitioner and those parties, instead indicated that the information was personal information which was asked for by the petitioner for his own personal interest and private purpose. Respondent No.3-Central Information Commissioner was eminently justified in taking a view that there was no public interest present in the information claimed to be supplied, rightly denying the same by dismissing the appeal.

7. Lastly but importantly, dealing with the contention raised on behalf of the petitioner that the impugned order passed by the Central Information Commission was an unreasoned order, and therefore the same was required to be set aside, it was not possible to countenance the same. It is correct to view the impugned order as one not providing reasons or to

perceive it to be a cryptic or an unreasoned order.

7.1 An order which discloses a reason, may be a one-line reason, is a reasoned order. If the reason supplied by the authority for its decision answers the issue, howsoever short it may be, it would satisfy the requirements of being a speaking order. Where an application of mind is disclosed and a conclusion is supported in certain credible and convincing way, it amounts to supplying reasons. An order which is communicative for the ground on which it is based can be said to be a speaking order and a reasoned order. It is the vitality of the reasons supplied, and not the verbosity in the reasons narrated, that matters. The impugned order mentions that in the petitioner's case, no larger interest was shown, therefore as held by the Supreme Court in **Girish Ramchandra Deshpande (supra)**, in view of the provisions of section 8(1)(j) of the Act, the information was exempt from disclosure. This order can be hardly characterized as an unreasoned order, much less a cryptic order. When the order in question supplies and communicates a ground that the decision taken is based on the ratio of the decision by the Apex Court decision, it would be a good, adequate and wholesome reasoning. Such order can be said to be eminently a reasoned order.

8. Learned advocate lastly requested that this Court may at least make certain observations that the revenue authorities before whom the proceedings are pending, may ask the respondents to produce the documents. The request is hardly deserves to be

acceded. No such observation can be made in the present proceedings. The prayer is not only not justified, but it is beyond the scope of the subject matter of the present petition. Lastly, it was submitted by learned advocate for the petitioner that he wanted to restrict his prayer for seeking information limited to certain documents and that in view of limited prayer restricted in the information, the court may direct the information authorities to supply such information. This request again cannot be accepted. If the petitioner wants certain documents and information independently, it is always open to take recourse to the relevant provisions of the Right to Information Act, 2005 by applying before the competent authority and pursue his request for getting such information in accordance with law.

9. For the foregoing reasons and discussion, petition deserves to be dismissed at the threshold. Accordingly this petition stands **dismissed** summarily.

THE HIGH COURT
OF GUJARAT (N.V.ANJARIA, J.)

chandrashekhar

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