

HIGH COURT OF MADHYA PRADESH

W.A. No.168/2015

(Smt. Sunita Jain vs. Pawan Kumar Jain and others)

Shri K.C. Ghildiyal, counsel for the petitioner.

Shri Siddharth Patel, counsel for the respondent No.1.

Shri Ishan Soni, counsel for the respondent No.3.

and

W.A. No.170/2015

(Smt. Sunita Jain vs. Bharat Sanchar Nigam Limited and others)

Shri K.C. Ghildiyal, counsel for the petitioner.

Shri Ishan Soni, counsel for the respondent No.1.

Shri Siddharth Patel, counsel for the respondent No.2.

Jabalpur, Dated: 15.05.2018

This order shall also govern the disposal of W.A. 170/2015 *(Smt. Sunita Jain vs. BSNL Limited and others)*, as facts are common in both the appeals.

For the sake of convenience, we have noticed the facts from W.P. No.341/2008 filed by respondent No.1 Pawan Kumar Jain. It is an admitted fact that Pawan Kumar Jain and the appellant are husband and wife with estranged relationship. Matrimonial disputes between them are pending in the Courts. It is also an admitted fact that wife Smt. Sunita Jain is getting a sum of Rs. 7,000/- as maintenance from the appellant. It is also an admitted fact that the appellant is an Advocate. It is specifically denied that she is practicing. The respondent no.1 is a very high officer in the Telecommunication Department and it is alleged that he is drawing salary more than Rs. 2,25,000/- per month. Be that as it may, we are not concerned with the fact in the present appeal. In her maintenance case, she filed an application under Section 91 of

Cr.P.C. for a direction to the respondent No.1 to submit his payslip for determination of proper maintenance amount, which was rejected by the trial Court. Then, she filed an application under the Right to Information Act, 2005 (for short “the Act”) to seek the salary details of the respondent No.1. The application was rejected. Matter travelled up to the Central Information Commission and the Central Information Commission vide order dated 27.07.2007 asked the Central Public Information Officer, BSNL, unit of BSNL to furnish the details of monthly remuneration. This order of the Central Information Commission was challenged in writ petition by Mr. Pawan Kumar Jain respondent No.1 as well as by the BSNL. The only ground raised in support of the writ petition was that Mr. Pawan Kumar Jain was not heard before passing the order dated 27.07.2007. Learned Single Judge allowed the petition only on the aforesaid ground and directed the Central Information Commission to decide the appeal afresh after affording opportunity of hearing to the parties concerned. The Central Information Commission vide order dated 26.12.2007, after affording opportunity of hearing, passed the order under Section 4(1)(b)(x) to comply with the provisions of the Act so that information is available on the public domain. This order was challenged in second round of writ petition by respondent No.1 as well as by the BSNL.

Learned Single Judge by the order impugned allowed the writ petition following the decision of the Supreme Court in the case of **Girish Ramchandra Deshpande vs. Central Information Commissioner and others**, reported in **(2013) 1 SCC 212**. Against the order impugned, this Intra Court Appeal.

The controversy involved in the present writ appeal is whether the information sought is exempt under Section 8(1)(j) of the Act or it is covered by Section 4(1)(b)(x) which obliges the public authorities to display on public domain the monthly remuneration received by each of its officers and employees.

For ready reference, Section 4(1)(b)(x) of the Act reads as under:-

“4. Obligations of public authorities.- (1) Every public authority shall-
(b). publish within one hundred and twenty days from the enactment of this Act.-
(i) xxxxxxxxxxxx
(ii) xxxxxxxxxxxx
(iii) xxxxxxxxxxxx
(iv) xxxxxxxxxxxx
(v) xxxxxxxxxxxx
(vi) xxxxxxxxxxxx
(vii) xxxxxxxxxxxx
(viii) xxxxxxxxxxxx
(ix) xxxxxxxxxxxx
(x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations.”

The question of consideration is whether such information is exempt Section 8(1)(j) of the Act, which reads as under:-

“8. Exemption from disclosure of information.- (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen.-
(a) xxxxxxxxxxxx
(b) xxxxxxxxxxxx
(c) xxxxxxxxxxxx
(d) xxxxxxxxxxxx
(e) xxxxxxxxxxxx
(f) xxxxxxxxxxxx
(g) xxxxxxxxxxxx
(h) xxxxxxxxxxxx

(i) xxxxxxxxxxxx

(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."*

The question is whether information sought is a personal information, the disclosure of which has no relationship to any public activity or interest or would cause unwarranted invasion of privacy of Shri Pawan Kumar Jain.

In Strouds Judicial Dictionary, Vol.IV (4th edn.) 'public interest' is defined thus:

"Public interest – 1. A matter of public or general interest does not mean that which is interesting as gratifying curiosity or a love of information or amusement; but that in which a class of the community have a pecuniary interest, or some interest by which their legal rights or liabilities are affected."

In Black's Law Dictionary (6th edn.). 'public interest' is defined as follows:

"Public Interest – Something in which the public, the community at large, has some pecuniary interest, or some interest by which their legal rights or liabilities are affected. It does not mean anything so narrow as mere curiosity, or as the interests of the particular localities, which may be affected by the matters in question. Interest shared by citizens generally in affairs of local, state or national government..."

While dealing with the Section 8(1)(j) of the Act, we cannot lose sight of the fact that the appellant and the respondent No.1 are husband and wife and as a wife she is entitled to know what remuneration the respondent No.1 is getting.

Present case is distinguishable from the case of **Girish Ramchandra Deshpande** (supra) and therefore the law laid down by their Lordships in the case of **Girish Ramchandra Deshpande** (supra) are not applicable in the present case.

In view of the foregoing discussion, we allow the appeal and set aside the order passed by the Writ Court in W.P. No.341/2008. Similarly, the W.A. No.170/2015 is also allowed and the impugned order passed in W.P. No.1647/2008 is set aside.

A copy of the order be retained in the file of W.A. No.170/2015.

There shall be no order as to the costs.

(S.K. SETH)
JUDGE

(NANDITA DUBEY)
JUDGE

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