



राष्ट्रीय प्रौद्योगिकी संस्थान दुर्गापुर

(मानव संसाधन विकास मंत्रालय, भारत सरकार के अधीन राष्ट्रीय महत्व का संस्थान)

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NATIONAL INSTITUTE OF TECHNOLOGY DURGAPUR

(Institute of National Importance Under MHRD, Govt. of India)

MAHATMA GANDHI AVENUE, DURGAPUR-713209, (WEST BENGAL), INDIA

Ref. No. NITD/Regis/OFF/FAA/17

Date: 14.10.2019

Subject:- Information under RTI Act, 2005.

Ref. :- Your letter dated 23/09/2019 seeking information under RTI Act 2005.

Sir,

In connection with above mentioned subject and reference, the available information's are as under:-

Sl. No.	Query	Reply
01.	Your queries	Available Information are enclosed as Annexure - "A" (pages - 01)

With regards.

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"If men were to forever govern ignorance and a people who mean to be their Governors must arm themselves with the power which knowledge gives. A popular government, without popular information or the means of obtaining it, is but a prologue to a farce or tragedy - or perhaps both." - James Madison

Right to privacy is an important natural need of every human being, no one can compel any individual to reveal his personal information which is not of public importance. Glancing upon this view, Right to privacy could be stated as recognized under Art 21 in the term "personal liberty". Every individual has the right to expression but at the same time they have the right not to express as well.

Section 8(j) of RTI Act, 2005 states as "Notwithstanding anything contained in this act, there shall be no obligation to give any citizen 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."

One of the major component of the sec.8(1)(j) is that it exempts the information which would cause unwarranted invasion of privacy of individual unless the PIO or the appellate authority is satisfied that the larger public interest justifies the disclosure of such information. It is to be noted that this section is specifically concerned about "the privacy of individual and no other bodies or institutions." It cannot be applied when the information concerns institutions, societies, organizations or corporate. This shows that privacy to some extent could only be maintained for an individual and no other body could entertain this power.

At one end, Privacy acts as basis for claiming exemption from revealing the information at the same time Preamble to the RTI ACT provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities and in order to promote transparency and accountability in the working of every public authority. One of the recent case which was in focus is "While the RTI application wanted details of Ouraishi's assets and liabilities from 2005-06 to 2010-11, the Commission cited Section 8(1)(j) of the RTI Act while rejecting the request". Disclosure of information such as assets of the public servants, which is routinely collected by the public authority and routinely provided by the public servants cannot be construed as invasion of Privacy, but some it worked as an obstacle to mere Right to privacy. In the democratic set up, it is required an informed citizenry, transparency of information which is of public importance and to curb the corruption. But at the same time the state has no right to invade the privacy of an individual without his permission.

In the Appeal No. CIC/WB/A/2008/00426 of Subhash Chandra Agarwal v. Supreme Court of India, the Commission held that even Supreme Court and High court judges having come within the purview of the RTI Act, 2005 have been directed to disclose their assets and it has been put into practice but before implementation again it was put under the case of privacy as a basis for claiming exemption. The work of CIC is really appreciable but sometimes this might lead to conflicting with our fundamental right because the term 'privacy' as well "right to information has not been defined in a wider sense. It completely depends upon the interpretation and precedents.

Though it seems that section 8(1)(j) works as Privacy for claiming exemption but as read from the act 'unwarranted invasion of privacy' it is again to be noted here that actually who declared the information as unwarranted invasion of privacy or of public importance, it is completely at the discretion of the commission to decide whether there is a unwarranted invasion of privacy or is required for transparency considering public importance.

There are some extraordinary situations where the State may be allowed to invade on the privacy of a Citizen. In those circumstances special provisos of the law apply, always with certain safeguards. Therefore it can be argued that where the State routinely obtains information from Citizens, this information is in relationship to a public activity and will not be an intrusion on privacy. Therefore we can state that disclosure of information such as assets of a Public servant, -which is routinely collected by the Public authority and routinely provided by the Public servants, cannot be construed as an invasion on the privacy of an individual. There will only be a few exceptions to this rule which might relate to information which is obtained by a Public authority while using extraordinary powers such as in the case of a raid or phone-tapping. And there lies the loophole where section 8(1)(j) cannot be applied.

There must be a kind of balance between all such act and law so as to restrict much more interpretation over right to privacy. Providing a wider scope to certain subject sometimes misuse the context and this must be curbed out. The main problem arises when there is an existence of any kind of exemption as in this case, this broadly inflict the situation to worsen it should be kept in mind that that there must not be liberal loophole and Law is meant to govern and abide by all the people and therefore, there must not be any kind of exemption except the needy people.