

CHIEF INFORMATION COMMISSIONER

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v.

HIGH COURT OF GUJARAT AND ANOTHER.

(Civil Appeal Nos.1966-1967 of 2020)

MARCH 04, 2020

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**[R. BANUMATHI, A. S. BOPANNA
AND HRISHIKESH ROY, JJ.]**

Right to Information Act, 2005 – s. 19 – Gujarat High Court Rules, 1993 – rr. 149 to 154 – An RTI application was filed by respondent no. 2 seeking information pertaining to certain cases along with all relevant documents and certified copies – The Public Information Officer, Gujarat High Court informed respondent no. 2 that since he is not a party to the said proceedings, as per r. 151 of the Gujarat High Court Rules, his application should be accompanied by an affidavit stating the grounds for which the certified copies are required and on making such application, he will be supplied the certified copies of the documents as per Rules 149 to 154 of the Rules, 1993 – The same was upheld by the Appellate Authority Registrar Administration – In the second appeal by respondent no. 2, the appellant-Chief Information commissioner directed Public Information Officer of the Gujarat High Court to provide the information sought by respondent no. 2 – Challenging the said order, respondent no. 1-High Court filed an application before the High Court – The Single Judge of the High Court passed an interim order directing respondent no. 1 to provide information sought by respondent no. 2 – However, the Division Bench of the High Court set aside the order Chief Information Commissioner by observing that when a particular field is governed by the rules which are not declared ultra-vires, then there is no question of applying the fresh rules and make the situation confusing – Thus, respondent no. 2 has to file an affidavit disclosing the purpose for which the certified copies are required as per the High Court Rules and there is no question of making applications under the RTI Act – On appeal, held: The Gujarat High Court Rules neither prohibit nor forbid dissemination of information or grant of certified copies of records – R. 151 of the Gujarat High Court Rules stipulating a third party to have access to the information/ obtaining the certified

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- A *copies of the documents or orders requires to file an application/affidavit stating the reasons for seeking the information, is not inconsistent with the provisions of the RTI Act; but merely lays down a different procedure as the practice or payment of fees, etc. for obtaining information – In the absence of inherent inconsistency between the provisions of the RTI Act and other law, overriding effect of RTI Act would not apply – The information to be accessed/certified copies on the judicial side to be obtained through the mechanism provided under the High Court Rules, the provisions of the RTI Act shall not be resorted to – The decision of the Division bench of the High Court confirmed.*
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C **Dismissing the appeals, the Court**

- HELD: 1. Rule 151 of the Gujarat High Court Rules, 1993 requires a third party applicant seeking copies of documents in any civil or criminal proceedings to file an application/affidavit stating the reasons for which those documents are required. As**
- D **such, the High Court Rules do not obstruct a third party from obtaining copies of documents in any court proceedings or any document on the judicial side. It is not as if the information is denied or refused to the applicant. All that is required to be done is to apply for the certified copies with application/affidavit stating**
- E **the reasons for seeking the information. The reason insisting upon the third party for stating the grounds for obtaining certified copies is to satisfy the court that the information is sought for *bona fide* reasons or to effectuate public interest. The information is held by the High Court as a trustee for the litigants in order to adjudicate upon the matter and administer justice. The same**
- F **cannot be permitted by the third party to have access to such personal information of the parties or information given by the Government in the proceedings. Lest, there would be misuse of process of court and the information and it would reach unmanageable levels. If the High Court Rules framed under**
- G **Article 225 provide a mechanism for invoking the said right in a particular manner, the said mechanism should be preserved and followed. The said mechanism cannot be abandoned or discontinued merely because the general law – RTI Act has been enacted. [Para 27][482-H; 483-A-D]**

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2. The object of the RTI Act itself recognizes the need to protect the institutional interest and also to make optimum use of limited fiscal resources and preservation of confidentiality of sensitive information. The procedure to obtain certified copies under the High Court Rules is not cumbersome and the procedure is very simple – filing of an application/affidavit along with the requisite court fee stating the reasons for seeking the information. The information held by the High Court on the judicial side are the “personal information” of the litigants like title cases and family court matters, etc. Under the guise of seeking information under the RTI Act, the process of the court is not to be abused and information not to be misused. [Para 28][483-E-F]

3. In exercise of supervisory jurisdiction under Article 227 of the Constitution of India, if the records are received by the High Court from tribunals like Income Tax Appellate Tribunal, it may contain the details disclosed by an assessee in his Income Tax Return. As held in *Girish Ramchandra Deshpande v. Central Information Commissioner and Others* (2013) 1 SSC 212, the details disclosed by a person in his Income Tax Return are personal information which stands exempted from disclosure unless it involves a larger public interest and the larger public interest justifies the disclosure of such information. While seeking information or certified copies of the documents, the High Court Rules which require the third party to a proceeding to file an affidavit stating the reasons for seeking the information, the same cannot be said to be inconsistent with the provisions of the RTI Act in as much as the rejection if any, made thereafter will be for the very reasons as stipulated in Section 8 of the RTI Act. [Para 29][483-G-H; 484-A-B]

4. This Court fully endorse views of the Delhi High Court in *The Registrar, Supreme Court of India v. RS Misra* (2017) 244 DLT 179. When the High Court Rules provide for a mechanism that the information/certified copies can be obtained by filing an application/affidavit, the provisions of the RTI Act are not to be resorted. [Para 32][486-E]

5. Sub-section (2) of Section 4 of the RTI Act provides that every public authority to take steps to provide as much

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- A information *suo motu* to the public at regular intervals through various means of communications including internet, so that the public have minimum resort to the use of the RTI Act to obtain information. *Suo motu* disclosure of information on important aspects of working of a public authority is therefore, an essential component of information regime. The judgments and orders
- B passed by the High Courts are all available in the website of the respective High Courts and any person can have access to these judgments and orders. Likewise, the status of the pending cases and the orders passed by the High Courts in exercise of its power under Section 235 of the Constitution of India i.e. control over
- C the subordinate courts like transfers, postings and promotions are also made available in the website. In order to maintain the confidentiality of the documents and other information pertaining to the litigants to the proceedings and to maintain proper balance, Rules of the High Court insist upon the third party to file an application/affidavit to obtain information/certified copies of the
- D documents, lest such application would reach unmanageable proportions apart from the misuse of such information. [Para 33][486-F-H; 487-A-B]

- E 6. Section 31 of the RTI Act repeals only the Freedom of Information Act, 2002 and not other laws. If the intention of the legislature was to repeal any other Acts or laws which deal with the dissemination of information to an applicant, then the RTI Act would have clearly specified so. In the absence of any provision to this effect, the provisions of the RTI Act cannot be interpreted so as to attribute a meaning to them which was not
- F intended by the legislature. In the RTI Act, there is no specific reference to the rules framed by the various High Courts or any other special law excepting the Freedom of Information Act, 2002. [Para 37][488-E-F]

- G 7. Rule 151 of the Gujarat High Court Rules requires a third party to the proceedings to file an affidavit and state the reasons for seeking access to the information or grant of certified copies of records and there is no inconsistency of the High Court Rules with the provisions of the RTI Act. The Gujarat High Court Rules neither prohibit nor forbid dissemination of information or grant of certified copies of records. The difference is only insofar
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as the stipulation of filing an application/affidavit or payment of fees, etc. is concerned, there is no inconsistency between the two provisions and therefore, the RTI Act has no overriding effect over Rule 151 of the Gujarat High Court Rules. [Para 38] [488-G-H; 489-A] A

8. This Court summarises the conclusion as follows:- B

(i) Rule 151 of the Gujarat High Court Rules stipulating a third party to have access to the information/obtaining the certified copies of the documents or orders requires to file an application/affidavit stating the reasons for seeking the information, is not inconsistent with the provisions of the RTI Act; but merely lays down a different procedure as the practice or payment of fees, etc. for obtaining information. In the absence of inherent inconsistency between the provisions of the RTI Act and other law, overriding effect of RTI Act would not apply. C

(ii) The information to be accessed/certified copies on the judicial side to be obtained through the mechanism provided under the High Court Rules, the provisions of the RTI Act shall not be resorted to. [Para 43][490-F-H; 491-A-B] D

Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agrawal **2019 (16) SCALE 40; Institute of Companies Secretaries of India v. Paras Jain (2019) SCC Online SC 764; Girish Ramchandra Deshpande v. Central Information Commissioner & Ors. (2013) 1 SCC 212 : [2012] 8 SCR 1097 – referred to.** E

The Registrar, Supreme Court of India v. R S Misra **(2017) 244 DLT 179 – approved.** F

State Public Information Officer and Deputy Registrar (Establishment) v. Karnataka Information Commission and Another (W.P. No.26763 of 2013 dated 09.01.2019) – referred to. G

Institute of Chartered Accountants of India v. Shaunak H. Satya & Ors. (2011) 8 SCC 781 : [2011] 14 SCR 328; R. S. Raghunath v. State of Karnataka (1992) 1 SCC 335 : [1991] 1 Suppl. SCR 387 – relied on. H

A	<u>Case Law Reference</u>		
	2019 (16) SCALE 40	referred to	Para 9
	[2012] 8 SCR 1097	referred to	Para 29
	[2011] 14 SCR 328	relied on	Para 30
B	[1991] 1 Suppl. SCR 387	relied on	Para 36

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 1966-1967 of 2020.

C From the Judgment and Order dated 13.03.2014 of the High Court of Gujarat at Ahmedabad in Letters Patent Appeal No. 1348 of 2013 in Special Civil Application No. 7880 of 2013.

A.N.S. Nadkarni, ASG (A.C.).

D Pritesh Kapoor, Sr. Adv., Salvador S. Rebello, Ms. Suhasini Sen, Ms. A. Raul, Neeleshwar Pavani, Ms. Riya Soni, Ms. Akansha Jain, Ms. Shivikka Agarwal, Arvind Kumar Sharma, Kabir Hathi, Ms. Shikha Sandhu, Ms. Sadhana Sandhu, Ms. Jesal Wahi, Aniruddha P. Mayee, A. Rajarajan, Sanjeev Kr. Choudhary, Prashant Bhushan, Pranav Sachdeva, Ms. Neha Rathi, Jatin Bhardwaj, Rahul Gupta, M/s. Alice Raj, Advs. for the appearing parties.

E The Judgment of the Court was delivered by

R. BANUMATHI, J.

1. Leave granted.

F 2. The point falling for determination in this appeal is as regards the right of a third party to apply for certified copies to be obtained from the High Court by invoking the provisions of Right to Information Act without resorting to Gujarat High Court Rules prescribed by the High Court.

3. Brief facts which led to filing of this appeal are as follows:-

G An RTI application dated 05.04.2010 was filed by respondent No.2 seeking information pertaining to the following cases – Civil Application No.5517 of 2003 and Civil Application No.8072 of 1989 along with all relevant documents and certified copies. In reply, by letter dated 29.04.2010, Public Information Officer, Gujarat High Court informed
H respondent No.2 that for obtaining required copies, he should make an

application personally or through his advocate on affixing court fees stamp of Rs.3/- with requisite fee to the “Deputy Registrar”. It was further stated that as respondent No.2 is not a party to the said proceedings, as per Rule 151 of the Gujarat High Court Rules, 1993, his application should be accompanied by an affidavit stating the grounds for which the certified copies are required and on making such application, he will be supplied the certified copies of the documents as per Rules 149 to 154 of the Gujarat High Court Rules, 1993.

4. Being aggrieved, respondent No.2 preferred Appeal No.84 of 2010 before the Appellate Authority-Registrar Administration under Section 19 of the Right to Information Act, 2005 (for short “RTI Act”). The appeal was dismissed vide order dated 04.08.2010 on the ground that for obtaining certified copies, the alternative efficacious remedy is already available under the Gujarat High Court Rules, 1993 and that under the provisions of RTI Act, no certified copies can be provided.

5. Respondent No.2 then filed Second Appeal No.1437 of 2010-11 before the Appellant-Chief Information Commissioner and notice was sent to respondent No.1. Respondent No.1-High Court filed its response reiterating the position that there are provisions under Rules 149 to 154 of the Gujarat High Court Rules for anybody who wants to obtain the certified copies as per which, application/affidavit should be filed stating the grounds for which the documents are required and with requisite court fee stamps. Respondent No.1 stated that despite the letter dated 02.07.2010 by the Deputy Registrar (CC Section), Decree Department, Gujarat High Court to respondent No.2 informing him of the procedure for getting certified copies, respondent No.2 has not made application as per the rules of the High Court and that the Public Information Officer cannot be compelled to breach the High Court Rules and hence, the appeal filed before the Chief Information Commissioner (CIC) is liable to be dismissed. Relying upon Sections 6(2) and 22 of the RTI Act, the appellant-Chief Information Commissioner vide its order dated 04.04.2013 directed Public Information Officer of the Gujarat High Court to provide the information sought by respondent No.2 within twenty days.

6. Challenging the order of Chief Information Commissioner, respondent No.1 filed Special Civil Application No.7880 of 2013 before the High Court. The learned Single Judge, while admitting the petition, passed an interim order dated 11.10.2013 directing respondent No.1 to provide the information sought by respondent No.2 within four weeks.

A The learned Single Judge held that the legality and validity of the direction given by the appellant and the right of respondent No.2 to receive the copies under RTI Act will be considered at the stage of final hearing. It was however clarified that supply of information by respondent No.1 shall not be construed as acceptance of applicability of RTI Act to the High Court.

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7. Being aggrieved by the interim order, respondent No.1-High Court preferred Letters Patent Appeal No.1348 of 2013 before the Division Bench contending that the party who seeks certified copies has to make an application along with the copying charges and requisite court fees stamp as per Rules 149 to 154 of the Gujarat High Court Rules. As per the Rules, if the certified copy is sought by a person who is not a party to the litigation, his application has to be accompanied by an affidavit stating therein the purpose for which he requires the certified copies. Vide impugned order, the High Court allowed the Letters Patent Appeal holding that when a particular field is governed by the rules which are not declared ultra-vires, then there is no question of applying the fresh rules and make the situation confusing. The High Court held that in the light of the High Court Rules, certified copies may be given on payment of charges as per the Rules and also the applicant (respondent No.2) has to file an affidavit disclosing the purpose for which the certified copies are required and there is no question of making an application under the RTI Act. The Division Bench set aside the order of the Chief Information Commissioner by observing that when a copy is demanded by any person, the same has to be in accordance with the Rules of the High Court on the subject.

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8. As the question involved is concerned with all the High Courts and having regard to the importance of the matter, we have requested Mr. Atmaram N.S. Nadkarni, learned Additional Solicitor General (ASG) to appear as *amicus curiae* to assist the Court which the learned ASG readily agreed. Mr. Nadkarni collected information from all the High Courts and filed a compilation of the information obtained by him about the Rules framed by various High Courts in exercise of their power under Article 225 of the Constitution of India and under Section 28 of the Right to Information Act, 2005.

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9. Mr. Preetesh Kapoor, learned Senior counsel for the appellant has contended that Section 6(2) of the RTI Act specifically provides that an applicant making a request for information shall not be required to

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give reasons for requesting the information sought and whereas under the Gujarat High Court Rules, applications made by third parties seeking copies of the documents shall be accompanied by an affidavit stating the grounds on which they are required and there is direct inconsistency between the provisions of the RTI Act and the Gujarat High Court Rules, 1993. It was submitted that in view of the inconsistency between the provisions of the RTI Act and the Gujarat High Court Rules, harmonious construction between the two is not possible and in the event of conflict between the provisions of RTI Act and any other law made by the Parliament or State Legislature or any other authority, the former must prevail. It was submitted that Section 22 of the RTI Act specifically provides that the provisions of the RTI Act will have an overriding effect over any other laws for the time being in force. The learned Senior counsel submitted that the High Court Rules have been framed in exercise of the powers under Article 225 of the Constitution of India which would be subject to any other law and the *non-obstante* clause in Section 22 of the RTI Act shows that the provisions of the RTI Act would override the High Court Rules. The learned Senior counsel *inter alia* relied upon the recent judgment of the Constitution Bench in *Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agrawal***2019 (16) SCALE 40.**

10. Mr. Prashant Bhushan, learned counsel appearing for the intervenors submitted that there can be no apprehension that allowing an applicant to seek information from the High Court under RTI Act can prejudicially affect the privacy/rights of other parties or the administration of justice. Reiterating the submission of Senior counsel, Mr. Preetesh Kapoor, Mr. Prashant Bhushan submitted that Rule 151 of the Gujarat High Court Rules is not in consonance with Section 6(2) of the RTI Act and the provisions of RTI Act prevails over the relevant Rules of Public Authorities/Gujarat High Court Rules. Taking us through Section 22 of the RTI Act, learned counsel submitted that RTI Act is a general law made by the Parliament with the avowed object of dissemination of information and ensuring transparency in the functioning of the Public Authorities and in view of *non obstante* clause of Section 22 of the RTI Act, in case of any conflict regarding “access to information from public authorities”, the provisions of RTI Act will prevail over any other law. In support of his contention, the learned counsel placed reliance upon *Institute of Companies Secretaries of India v. Paras Jain* **2019 SCC Online SC 764** and the Constitution Bench judgment in *Subhash Chandra Agrawal*.

- A 11. Mr. Aniruddha P. Mayee, learned counsel appearing for
respondent No.1-High Court of Gujarat submitted that the Gujarat High
Court Rules 149 to 154 do not stipulate anything contra to Section 22 of
the RTI Act and the Gujarat High Court Rule 151 is in consonance with
the RTI Act. The learned counsel submitted that respondent No.2 was
only informed to make an application as per the procedure stipulated
B under the Gujarat High Court Rules, 1993 and since respondent No.2
was not a party to the proceedings, he was informed that his application
shall be accompanied with an affidavit stating the grounds for which the
certified copies are required. The learned counsel submitted that when
an efficacious remedy is available under Rule 151 of the Gujarat High
C Court Rules which is in consonance with the provisions of RTI Act, the
provisions of the RTI Act cannot be invoked and the High Court rightly
held that there is no question of making an application under the RTI Act
and rightly quashed the order of the appellant-Chief Information
Commissioner.
- D 12. Mr. Nadkarni, learned *amicus* has taken us through the
information received from the various High Courts and submitted that in
exercise of power under Article 225 of the Constitution of India, the
High Court Rules are framed and the Rules provide for a mode for
furnishing of information by way of certified copies to persons who are
party to the litigation after making payment of requisite fees. It was
E submitted that insofar as third parties i.e. persons who are not party to
the litigation are concerned, the same is also provided under the Rules, if
the third party files an affidavit stating the reasonable grounds to receive
such information/certified copies. The learned *amicus* submitted that
there is no inconsistency between the RTI Act and the Rules framed by
F the High Court so as to furnish information. It was also submitted that
although Section 22 of the RTI Act has an overriding effect over any
other laws, in case there are inconsistencies, Section 22 of the RTI Act
does not contemplate to override those legislations which also aim to
ensure access to information. The learned *amicus* submitted that so far
G as the information on the judicial side of the High Court, the Rules framed
by the High Court provide for dissemination of information to third party
as per the High Court Rules by filing an application with requisite fee
and filing an affidavit stating the grounds. Insofar as the information on
the administrative side of the High Court, the learned *amicus* submitted
that access to such information could be had through the Rules framed
H by the various High Courts and the Rules framed under the RTI Act by

the High Courts. Drawing our attention to the judgment of the Delhi High Court in *The Registrar, Supreme Court of India v. RS Misra* (2017) 244 DLT 179 and judgment of the Karnataka High Court in *Karnataka Information Commissioner v. State Public Information Officer and another WP(C) No.9418 of 2008*, the learned *amicus* submitted that the High Courts have taken a consistent view that the information can be accessed through the mechanism provided under the Supreme Court Rules, 2013 and the High Court Rules and once any information can be accessed through the mechanism provided under the Statute or the Rules framed, the provisions of the RTI Act cannot be resorted to.

13. We have carefully considered the contentions and perused the impugned judgment and materials on record. The following points arise for consideration in this appeal:-

- (i) Whether Rule 151 of the Gujarat High Court Rules, 1993 stipulating that for providing copy of documents to the third parties, they are required to file an affidavit stating the reasons for seeking certified copies, suffers from any inconsistency with the provisions of RTI Act?
- (ii) When there are two machineries to provide information/ certified copies – one under the High Court Rules and another under the RTI Act, in the absence of any inconsistency in the High Court Rules, whether the provisions of RTI Act can be resorted to for obtaining certified copy/information?

14. Section 2(f) of the Right to Information Act, 2005 explains the meaning of the term “**information**” which reads as under:-

2. Definitions. – In this Act, unless, the context otherwise requires,-

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(f) “**information**” means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;

A 15. Section 2(h) of the RTI Act defines “**public authority**”. The term “**public authority**” has been given very wide meaning in the RTI Act. Section 2(h) of the RTI Act reads as under:-

2. Definitions. – In this Act, unless, the context otherwise requires,-

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 (h) “**public authority**” means any authority or body or institution of self-government established or constituted,—

 (a) by or under the Constitution;

C (b) by any other law made by Parliament;

 (c) by any other law made by State Legislature;

 (d) by notification issued or order made by the appropriate Government, and includes any—

D (i) body owned, controlled or substantially financed;

 (ii) non-Government Organisation substantially financed, directly or indirectly by funds provided by the appropriate Government;

E 16. Section 2(i) of the RTI Act defines “**record**” which is an inclusive definition. Section 2(j) explains “**right to information**”. Sections 2(i) and 2(j) of the RTI Act read as under:-

2. Definitions. – In this Act, unless, the context otherwise requires,-

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 (i) “**record**” includes—

 (i) any document, manuscript and file;

 (ii) any microfilm, microfiche and facsimile copy of a document;

G (iii) any reproduction of image or images embodied in such microfilm (whether enlarged or not); and

 (iv) any other material produced by a computer or any other device;

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(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— A

- (i) inspection of work, documents, records;
- (ii) taking notes, extracts or certified copies of documents or records; B
- (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; C

17. Section 8(1) of the RTI Act provides for exemption from disclosure of information. Right to information is subject to exceptions or exemptions stated in Section 8(1)(a) to 8(1)(j) of the RTI Act. There are ten clauses of Section 8(1) of the RTI Act. Clause (a) of sub-section (1) of Section 8 deals with information that would compromise the sovereignty or integrity of the country and like matter; clause (b) covers any information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court; clause (c) covers such matters which would cause a breach of privilege of the Parliament or the State Legislatures; clause (d) protects information of commercial nature and trade secrets and intellectual property; clause (e) exempts the disclosure of any 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; clause (f) prevents information being disseminated, if it is received in confidence from any foreign Government; clause (g) exempts the disclosure of any information which 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; clause (h) bars access to such information which would impede the process of investigation or apprehension or prosecution of offenders; clause (i) forbids records and papers relating to deliberations of ministers and officers of the executive being made available, subject to a proviso; and, clause (j) prohibits disclosure of personal information unless there is an element of public interest involved. D E F G

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- A 18. In *Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agrawal***2019 (16) SCALE 40**, the Supreme Court upheld the order passed by the Central Information Commissioner directing the CPIO, Supreme Court of India to furnish information as to the assets declared by the Hon'ble Judges of the Supreme Court. The Constitution Bench held that such disclosure would not, in any way, impinge upon the personal information and right to privacy of the Judges. The fiduciary relationship rule in terms of Section 8(1)(e) of the RTI Act was held inapplicable. Learned counsel appearing for the parties extensively relied upon the observations of the Supreme Court in *Subhash Chandra Agarwal*. Since the issue before us is the High Court Rules vis-a-vis., the RTI Act, we do not propose to refer the various observations copiously relied upon by the learned counsel appearing for the parties.

- D 19. Article 124 relates to the establishment and constitution of the Supreme Court. Article 124 states that the Supreme Court of India consist of Chief Justice of India and other Judges. Under Article 145 of the Constitution, the Supreme Court may, from time to time, with the approval of the President, make Rules for regulating generally the Practice and Procedure of the Court. In exercise of the powers under Article 145 of the Constitution, the Supreme Court has framed "Supreme Court Rules". Order XIII of the Supreme Court Rules lays down the procedure in respect of grant of certified copies of pleadings, judgments, documents, decrees or orders, deposition of the witnesses, etc. to the parties to the litigation and also to the third parties. The parties to a proceeding in the Supreme Court shall be entitled to obtain certified copies by making appropriate application and the court fees payable as per the "Supreme Court Rules". So far as the third parties are concerned, as per Order XIII Rule 2 of the Supreme Court Rules, the court on the application of a person who is not a party to the case, appeal or matter, pending or disposed of, may on good cause shown, allow such person to receive such copies as is or are mentioned in the Order XIII Rule 1 of the Supreme Court Rules. Thus, as per the Supreme Court Rules also, G the third party is required to show good cause for obtaining certified copies of the documents or orders.

- H 20. Article 216 relates to the constitution of High Courts. Every High Court consists of a Chief Justice and other Judges as the President of India may from time to time appoint. The High Court Rules are framed

under Article 225 of the Constitution of India. The procedure followed for furnishing of copies/certified copies of orders/documents etc., being information on the judicial side, are governed by the Rules framed by the High Court under Article 225 of the Constitution of India. Insofar as the RTI Act is concerned, in exercise of the powers under Section 28 of the RTI Act, various High Courts have framed the Rules under RTI Act and the information on the administrative side of the High Court can be accessed as per the Rules framed by the High Courts under RTI Act.

21. In the present case, we are concerned with Gujarat High Court Rules. Grant of certified copies to parties to the litigation and third parties are governed by Rules 149 to 154 of Gujarat High Court Rules. As per the Rules, on filing of application with prescribed court fees stamp, litigants/parties to the proceedings are entitled to receive the copies of documents/orders/judgments etc. The third parties who are not parties in any of the proceedings, shall not be given the copies of judgments and other documents without the order of the Assistant Registrar. As per Rule 151 of the Gujarat High Court Rules, the applications requesting for copies of documents/judgments made by third parties, shall be accompanied by an affidavit stating the grounds for which they are required. Rule 151 reads as under:-

“151. Parties to proceedings entitled to copies; application by third parties to be accompanied by affidavits. Copies of documents in any Civil or Criminal Proceedings and copies of judgment of the High Court shall not be given to persons other than the parties thereto without the order of the Assistant Registrar. Applications for copies of documents or judgment made by third parties shall be accompanied by an affidavit stating the grounds on which they are required, provided that such affidavit shall be dispensed with in case of applications made by or on behalf of the Government of the Union, the Government of any State or the Government of any foreign State.”

22. The learned *amicus* has obtained information from various High Courts as to the procedure followed by the High Courts for furnishing certified copies of orders/judgments/documents. As per the Rules framed by various High Courts, parties to the proceedings are entitled to obtain certified copies of orders/judgments/documents on filing of application along with prescribed court fees stamp. Insofar as furnishing of certified copies to third parties, the Rules framed by the

- A High Courts stipulate that the certified copies of documents/orders or judgments or copies of proceedings would be furnished to the third parties only on the orders passed by the court or the Registrar, on being satisfied about the reasonable cause and *bona fide* of the reasons seeking the information/certified copies of the documents. We may refer to the Rules framed by the High Courts of Bombay, Gujarat, Himachal Pradesh, B Karnataka, Madras and various other High Courts which stipulate similar provisions for furnishing information/certified copies to third parties. The Rules stipulate that for the third parties to have access to the information on the judicial side or obtaining certified copies of documents/judgments/orders, the third parties will have to make an application stating the reasons C for which they are required and on payment of necessary court fees stamp. As pointed out earlier, Supreme Court Rules also stipulate that certified copies of documents or orders could be supplied to the third parties only on being satisfied about the reasonable cause. Be it noted, the access to the information or certified copies of the documents/ D judgments/orders/court proceedings are not denied to the third parties. The Rules of the High Court only stipulate that the third parties will have to file an application/affidavit stating the reasons for which the information/certified copies are required. The Rules framed by the Gujarat High Court are in consonance with the provisions of the RTI Act. There is no inconsistency between the provisions of the RTI Act E with the Rules framed by the High Court in exercise of the powers under Article 225 of the Constitution of India.

23. Mr. Preetesh Kapoor, learned Senior counsel for the appellant has submitted that Section 6(2) of the RTI Act grants a substantive right and the person who is seeking information/copies is not required to give F any reason and this right cannot be curtailed or whittled down by procedural laws framed by the High Court under Article 225 of the Constitution of India. In support of his contention that the rules framed by the High Court in exercise of powers under Article 225 cannot make or curtail any substantive law, reliance was placed upon *Raj Kumar Yadav v. Samir Kumar Mahaseth and Others* (2005) 3 SCC 601. G Learned Senior counsel further submitted that Section 22 of the RTI Act specifically provides that the provisions of the RTI Act will have an overriding effect over other laws for the time being in force. It was therefore, submitted that in the event of any conflict between the provisions of the RTI Act and any other laws made by the Parliament or H a State Legislature or any other authority, the provisions of the RTI Act

must prevail and therefore, the RTI Act would prevail over the rules framed by the High Court. Mr. Prashant Bhushan, learned counsel for the intervention applicants also reiterated the same submission. A

24. In order to consider the contentions urged by the learned Senior counsel for the appellant and Mr. Prashant Bhushan, let us briefly refer to the various categories of information held by the High Court, which are broadly as under:- B

- (a) information held by the High Court relating to the parties to the litigation/proceedings – pleadings, documents and other materials and memo of grounds raised by the parties;
- (b) orders and judgments passed by the High Court, notes of proceedings, etc.; C
- (c) In exercise of power of superintendence over the other courts and tribunals, information received in the records submitted/ called for by those courts and tribunals like subordinate judiciary, various tribunals like Income Tax Appellate Tribunal, Customs Excise and Service Tax Appellate Tribunal and other tribunals; D
- (d) information on the administrative side of the High Court viz. appointments, transfers and postings of the judicial officers, staff members of the High Court and the district judiciary, disciplinary action taken against the judicial officers and the staff members and such other information relating to the administrative work. E
- (e) Correspondence by the High Court with the Supreme Court, Government and with the district judiciary, etc.; F

and

- (f) information on the administrative side as to the decision taken by the collegium of the High Court in making recommendations of the Judges to be appointed to the High Court; information as to the assets of the sitting Judges held by the Chief Justice of the High Court. G

25. Information under the categories (a), (b) and (c) and other information on the judicial side can be accessed/certified copies of documents and orders could be obtained by the parties to the proceedings H

- A in terms of the High Court Rules and the parties to the proceedings are entitled to the same. So far as the third parties are concerned, as of right, they are not entitled to access the information/obtain the certified copies of documents, orders and other proceedings. As per rules framed by the High Court, a third party can obtain the certified copies of the documents, orders or judgments or can have access to the information
- B only by filing an application/affidavit and by stating the reason for which the information/copies of documents or orders are required. Insofar as on the administrative side i.e. categories (d), (e) and (f), one can have access to the information or copies of the documents could be obtained under the rules framed by the various High Courts or under the rules
- C framed by the High Court under the RTI Act. Insofar as the disclosure of information as to the assets of the Judges held by the Chief Justice of the High Court, the same is now covered by the judgment of the Constitution Bench reported in *Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agrawal* **2019 (16) SCALE 40**.
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26. The preamble to the RTI Act suggests that the Act was enacted “to promote transparency and accountability in the working of every public authority.....”. The Act was enacted by keeping in view the right of “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.....”. The preamble opens with a reference to the Constitution having established a democratic republic and the need therefore, for an informed citizenry. The preamble reveals that legislature was conscious of the likely conflict with other public interest including
- E efficient operations of the Governments and optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information and the necessity to harmonise these conflicting interests. A citizen of India has every right to ask for any information subject to the limitation prescribed under the Act. The right to seek information is only to fulfill the objectives of the Act laid down in the preamble, that is, to promote
- F transparency of information.
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27. Rule 151 of the Gujarat High Court Rules, 1993 requires a third party applicant seeking copies of documents in any civil or criminal proceedings to file an application/affidavit stating the reasons for which those documents are required. As such, the High Court Rules do not
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obstruct a third party from obtaining copies of documents in any court proceedings or any document on the judicial side. It is not as if the information is denied or refused to the applicant. All that is required to be done is to apply for the certified copies with application/affidavit stating the reasons for seeking the information. The reason insisting upon the third party for stating the grounds for obtaining certified copies is to satisfy the court that the information is sought for *bona fide* reasons or to effectuate public interest. The information is held by the High Court as a trustee for the litigants in order to adjudicate upon the matter and administer justice. The same cannot be permitted by the third party to have access to such personal information of the parties or information given by the Government in the proceedings. Lest, there would be misuse of process of court and the information and it would reach unmanageable levels. If the High Court Rules framed under Article 225 provide a mechanism for invoking the said right in a particular manner, the said mechanism should be preserved and followed. The said mechanism cannot be abandoned or discontinued merely because the general law – RTI Act has been enacted.

28. As discussed earlier, the object of the RTI Act itself recognizes the need to protect the institutional interest and also to make optimum use of limited fiscal resources and preservation of confidentiality of sensitive information. The procedure to obtain certified copies under the High Court Rules is not cumbersome and the procedure is very simple – filing of an application/affidavit along with the requisite court fee stating the reasons for seeking the information. The information held by the High Court on the judicial side are the “personal information” of the litigants like title cases and family court matters, etc. Under the guise of seeking information under the RTI Act, the process of the court is not to be abused and information not to be misused.

29. In exercise of supervisory jurisdiction under Article 227 of the Constitution of India, if the records are received by the High Court from tribunals like Income Tax Appellate Tribunal, it may contain the details disclosed by an assessee in his Income Tax Return. As held in *Girish Ramchandra Deshpande v. Central Information Commissioner and Others* (2013) 1 SSC 212, the details disclosed by a person in his Income Tax Return are personal information which stands exempted from disclosure unless it involves a larger public interest and the larger public interest justifies the disclosure of such information. While seeking

A information or certified copies of the documents, the High Court Rules which require the third party to a proceeding to file an affidavit stating the reasons for seeking the information, the same cannot be said to be inconsistent with the provisions of the RTI Act in as much as the rejection if any, made thereafter will be for the very reasons as stipulated in Section 8 of the RTI Act.

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30. Considering the implementation of RTI Act and observing that the existing mechanism for invoking the said right should be preserved and operated, in *Institute of Chartered Accountants of India v. Shaunak H. Satya and Others* (2011) 8 SCC 781, the Supreme Court held as under:-

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“24. One of the objects of democracy is to bring about transparency of information to contain corruption and bring about accountability. But achieving this object does not mean that other equally important public interests including efficient functioning of the governments and public authorities, optimum use of limited fiscal resources, preservation of confidentiality of sensitive information, etc. are to be ignored or sacrificed. The object of the RTI Act is to harmonise the conflicting public interests, that is, ensuring transparency to bring in accountability and containing corruption on the one hand, and at the same time ensure that the revelation of information, in actual practice, does not harm or adversely affect other public interests which include efficient functioning of the governments, optimum use of limited fiscal resources and preservation of confidentiality of sensitive information, on the other hand. While Sections 3 and 4 seek to achieve the first objective, Sections 8, 9, 10 and 11 seek to achieve the second objective.

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25. Therefore, when Section 8 exempts certain information from being disclosed, it should not be considered to be a fetter on the right to information, but as an equally important provision protecting other public interests essential for the fulfilment and preservation of democratic ideals. Therefore, in dealing with information not falling under Sections 4(1)(b) and (c), the competent authorities under the RTI Act will not read the exemptions in Section 8 in a restrictive manner but in a practical manner so that the other public interests are preserved and the RTI Act attains a fine balance between its goal of attaining transparency of information and safeguarding the other public interests.”

31. While examining the issue of where two mechanisms exist for obtaining the information i.e. the Supreme Court Rules and the RTI Act, in *The Registrar Supreme Court of India v. R S Misra (2017) 244 DLT 179*, the Delhi High Court held that “*once any information can be accessed through the mechanism provided under another statute, then the provisions of the RTI Act cannot be resorted to.*” In *(2017) 244 DLT 179*, the Delhi High Court held as under:-

“53. The preamble shows that the RTI Act has been enacted only to make accessible to the citizens the information with the public authorities which W.P.(C) 3530/2011 Page 22 of 36 hitherto was not available. Neither the Preamble of the RTI Act nor does any other provision of the Act disclose the purport of the RTI Act to provide additional mode for accessing information with the public authorities which has already formulated rules and schemes for making the said information available. Certainly if the said rules, regulations and schemes do not provide for accessing information which has been made accessible under the RTI Act, resort can be had to the provision of the RTI Act but not to duplicate or to multiply the modes of accessing information.

54. This Court is further of the opinion that if any information can be accessed through the mechanism provided under another statute, then the provisions of the RTI Act cannot be resorted to as there is absence of the very basis for invoking the provisions of RTI Act, namely, lack of transparency. In other words, the provisions of RTI Act are not to be resorted to if the same are not actuated to achieve transparency.

55. Section 2(j) of the RTI Act reveals that the said Act is concerned only with that information, which is under the exclusive control of the ‘public authority’. Providing copies/certified copies is not separate from providing information. The SCR not only deal with providing ‘certified copies’ of judicial records but also deal with providing ‘not a certified copy’ or simply a ‘copy’ of the document. The certification of the records is done by the Assistant Registrar/Branch Officer or any officer on behalf of the Registrar. In the opinion of this Court, in case of a statute which contemplates dissemination of information as provided for by the Explanation to Section 4 of the RTI Act then in such situation, public will have minimum resort to the use of the RTI Act to obtain such information.

- A 56. There are other provisions of the RTI Act which support the said position, namely, Sections 4(2), (3) and (4) which contemplate that if an information is disseminated then the public will have minimum resort to the use of the RTI Act to obtain information. In the present case, the dissemination of information under the provisions of the SCR squarely fits into the definition of
- B “disseminated” as provided in the aforesaid Explanation to Section 7(9) and the Preamble contemplate a bar for providing information if it „disproportionally diverts the resources of the public authority”.
- C 57. Section 4(2) also provides that it shall be constant endeavour of every public authority to take steps in accordance with the requirements of subSection (1) thereof and to provide as much information suo-motu to the public at regular intervals through various means of communications including intervals so that the public has minimum resort to the use of the RTI Act to obtain information.” [Underlining added]
- D The same view was taken up by the Karnataka High Court in *State Public Information Officer and Deputy Registrar (Establishment) v. Karnataka Information Commission and Another WP No.26763 of 2013* dated 09.01.2019.
- E 32. We fully endorse above views of the Delhi High Court. When the High Court Rules provide for a mechanism that the information/certified copies can be obtained by filing an application/affidavit, the provisions of the RTI Act are not to be resorted.
- F 33. Sub-section (2) of Section 4 of the RTI Act provides that every public authority to take steps to provide as much information *suo motu* to the public at regular intervals through various means of communications including internet, so that the public have minimum resort to the use of the RTI Act to obtain information. *Suo motu* disclosure of information on important aspects of working of a public authority is therefore, an essential component of information regime. The judgments and orders passed by the High Courts are all available in the website of the respective High Courts and any person can have access to these
- G judgments and orders. Likewise, the status of the pending cases and the orders passed by the High Courts in exercise of its power under Section 235 of the Constitution of India i.e. control over the subordinate courts like transfers, postings and promotions are also made available in the
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website. In order to maintain the confidentiality of the documents and other information pertaining to the litigants to the proceedings and to maintain proper balance, Rules of the High Court insist upon the third party to file an application/affidavit to obtain information/certified copies of the documents, lest such application would reach unmanageable proportions apart from the misuse of such information.

34. Section 22 of the RTI Act lays down that the provisions of the RTI Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923, and any other law for the time being in force or in any instrument having effect by virtue of any law other than RTI Act. Learned Senior counsel for the appellant has submitted that since the requirement under Rule 151 of the Gujarat High Court Rules of filing an affidavit stating the grounds for seeking the information is directly contrary to Section 6(2) of the RTI Act and there is direct inconsistency between the provisions of the RTI Act and the Gujarat High Court Rules and in the event of conflict between the provisions of the RTI Act and any other law made by the Parliament or a State Legislature or any other authority, the RTI Act must prevail.

35. In the *non obstante* clause of Section 22 of the RTI Act, three categories have been mentioned:- (i) the Official Secrets Act, 1923; and (ii) any other law for the time being in force; or (iii) any instrument having effect by virtue of any law other than this Act. In case of inconsistency of any law with the provisions of the Right to Information Act, overriding effect has been given to the provisions of the Right to Information Act. Section 31 of the RTI Act which is a repealing clause repeals only the Freedom of Information Act, 2002 and not other laws. The Right to Information Act has not repealed the Official Secrets Act or any of the laws providing confidentiality which prohibits the authorities to disclose information. Therefore, all those enactments including Official Secrets Act, 1923 continue to be in force. This Act however, has an overriding effect to the extent they are inconsistent.

36. The *non-obstante* clause of the RTI Act does not mean an implied repeal of the High Court Rules and Orders framed under Article 225 of the Constitution of India; but only has an overriding effect in case of inconsistency. A special enactment or rule cannot be held to be overridden by a later general enactment simply because the latter opens up with a *non-obstante* clause, unless there is clear inconsistency between the two legislations. In this regard, we may usefully refer to the

A judgment of the Supreme Court in *R.S. Raghunath v. State of Karnataka* (1992) 1 SCC 335 wherein, the Supreme Court held as under:-

“38. In *Ajoy Kumar Banerjee v. Union of India* (1984) 3 SCC 127, Sabyasachi Mukharji, J. (as His Lordship then was) observed thus :

B “As mentioned hereinbefore if the scheme was held to be valid,
then the question what is the general law and what is the special
law and which law in case of conflict would prevail would have
arisen and that would have necessitated the application of the
principle “*generalia specialibus non derogant*”. The general
C rule to be followed in case of conflict between the two statutes is
that the later abrogates the earlier one. In other words, a prior
special law would yield to a later general law, if either of the two
following conditions is satisfied:

(i) The two are inconsistent with each other.

D (ii) There is some express reference in the later to the earlier
enactment.

If either of these two conditions is fulfilled, the later law, even
though general, would prevail.”

E 37. As pointed out earlier, Section 31 of the RTI Act repeals only
the Freedom of Information Act, 2002 and not other laws. If the intention
of the legislature was to repeal any other Acts or laws which deal with
the dissemination of information to an applicant, then the RTI Act would
have clearly specified so. In the absence of any provision to this effect,
the provisions of the RTI Act cannot be interpreted so as to attribute a
F meaning to them which was not intended by the legislature. In the RTI
Act, there is no specific reference to the rules framed by the various
High Courts or any other special law excepting the Freedom of
Information Act, 2002.

G 38. As discussed earlier, Rule 151 of the Gujarat High Court Rules
requires a third party to the proceedings to file an affidavit and state the
reasons for seeking access to the information or grant of certified copies
of records and there is no inconsistency of the High Court Rules with
the provisions of the RTI Act. The Gujarat High Court Rules neither
prohibit nor forbid dissemination of information or grant of certified copies
of records. The difference is only insofar as the stipulation of filing an
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application/affidavit or payment of fees, etc. is concerned, there is no inconsistency between the two provisions and therefore, the RTI Act has no overriding effect over Rule 151 of the Gujarat High Court Rules. A

39. Ten categories of information are exempted from disclosure under Section 8(1)(a) to (j) of the RTI Act. Section 8(1)(j) excludes disclosure of personal information, the disclosure of which:- (i) has no relationship to any public activity or interest; or (ii) would cause unwarranted invasion of the privacy of the individual. However, in both the cases, the Central Public Information Officer or the appellate authority may order disclosure of such information, if they are satisfied that larger public interest justifies disclosure. This would imply that personal information which has some relationship to any public activity or interest may be liable to be disclosed. An invasion of privacy may be held to be justified if the larger public interest so warrants. B C

40. The information held by the High Court on the judicial side are the personal information of the parties to the litigation or information furnished by the Government in relation to a particular case. There may be information held by the High Court relating to the cases which have been obtained from the various tribunals in exercise of the supervisory jurisdiction of the High Court under Article 227 of the Constitution of India. For instance, the matters arising out of the orders by the Income Tax Appellate Tribunal, Customs Excise and Service Tax Appellate Tribunal and other tribunals over which the High Court exercises the supervisory jurisdiction. The orders/judgments passed by the High Court though are the documents which are concerned to the rights and liabilities of the parties to the litigation. Under Section 8(1)(j) of the RTI Act, the Central Public Information Officer or the appellate authority may order disclosure of personal information if they are satisfied that the larger public interest justifies disclosure. Insofar as the High Court Rules are concerned, if the information or certified copies of the documents/record of proceedings/orders on the judicial side of the Court is required, all that the third party is required to do is to file an application/affidavit stating the reasons for seeking such information. On being satisfied about the reasons for requirement of the certified copy/disclosure of information, the Court or the concerned Officer would order for grant of certified copies. As discussed earlier, Order XIII Rule 3 of the Supreme Court Rules also stipulate the same procedure insofar as the third party seeking certified copy of the documents/records. D E F G

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A 41. Yet another contention advanced is that the information held
by the High Court may be furnished to the applicant by following the
procedure under Section 11 of the RTI Act. Section 11 of the Act deals
with **third party information**. As per Section 11 of the Act, if the
requisite information or record or part thereof has been supplied by a
B third party and has been treated as confidential by that third party, then
the Central Public Information Officer or State Public Information Officer,
as the case may be, within five days of receipt of the request give a
written notice to such third party of the request and of the fact that the
Central Public Information Officer or State Public Information Officer,
as the case may be, intends to disclose the information or record or part
C thereof and invite the third party to make a submission in writing or
orally regarding whether such information should be disclosed and such
submission of the third party shall be kept in view while taking a decision
about the disclosure of the information.

42. We do not find any merit in the above submission and that
D such cumbersome procedure has to be adopted for furnishing the
information/certified copies of the documents. When there is an effective
machinery for having access to the information or obtaining certified
copies which, in our view, is a very simple procedure i.e. filing of an
application/affidavit with requisite court fee and stating the reasons for
which the certified copies are required, we do not find any justification
E for invoking Section 11 of the RTI Act and adopt a cumbersome
procedure. This would involve wastage of both time and fiscal resources
which the preamble of the RTI Act itself intends to avoid.

43. We summarise our conclusion:-

F (i) Rule 151 of the Gujarat High Court Rules stipulating a third
party to have access to the information/obtaining the certified
copies of the documents or orders requires to file an
application/affidavit stating the reasons for seeking the
information, is not inconsistent with the provisions of the
RTI Act; but merely lays down a different procedure as
G the practice or payment of fees, etc. for obtaining
information. In the absence of inherent inconsistency
between the provisions of the RTI Act and other law,
overriding effect of RTI Act would not apply.

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- (ii) The information to be accessed/certified copies on the judicial side to be obtained through the mechanism provided under the High Court Rules, the provisions of the RTI Act shall not be resorted to. A

44. In the light of aforesaid reasonings, the impugned order dated 13.03.2014 passed by the High Court of Gujarat at Ahmedabad in Letters Patent Appeal No.1348 of 2013 is confirmed and these appeals are dismissed. We place on record the valuable assistance rendered by Mr. Atmaram N.S. Nadkarni as *amicus*. B

Ankit Gyan

Appeals dismissed.

