

## Mrs S Chandra Babu vs Indian Overseas Bank on 18 January, 2016

Central Information Commission, New Delhi  
File No. CIC/SH/A/2014/002773  
File No. CIC/SH/A/2014/002997  
File No. CIC/SH/A/2014/002810  
File No. CIC/SH/A/2014/003091  
Right to Information Act-2005-Under Section (19)

Date of hearing : 18th January 2016

Date of decision : 18th January 2016

Name of the Appellant : Shri S. S. Chandran Babu,  
Blk 603, # 03-42, Clementi West Street-1,  
Singapore- 120 603

Name of the Public Authority/Respondent : Central Public Information Officer,  
Indian Overseas Bank,

RTI Cell, Law Department, Central Office: P B No. 3765, 763, Anna Salai, Chennai 600 002  
The Appellant, who is in Singapore, was heard through audio conferencing at his request.

On behalf of the Respondents, Shri P. Madhavan, DGM was present at the NIC Studio, Chennai.

I n f o r m a t i o n C o m m i s s i o n e r : S h r i S h a r a t S a b h a r w a l  
These files contain appeals in respect of the RTI applications dated 16.8.2014, 18.8.2014, 5.8.2014 and 11.9.2014, filed by the Appellant seeking information regarding the C I C / S H / A / 2 0 1 4 / 0 0 2 8 1 0 loans sanctioned by the Singapore branch of the bank, complaints received from public regarding instances of corruption on the part of bank officials and designing of the website of the bank in India and abroad. Not satisfied with the response of the Respondents, the Appellant has approached the CIC in second appeal in all the four cases.

2. In the RTI application dated 16.8.2014 (File No. 2773), the Appellant sought information on five points regarding the loans sanctioned, from April 2009 till the date of the RTI application, by the Singapore branch of the Respondent Bank as individual bank or consortium to individuals / companies / partnership firms etc. He also sought details of minutes of meetings of Board of Directors of the bank April 2010 onwards. The information was denied by the CPIO under Section 8 (1) (d) and (e) of the RTI Act. The CPIO

further stated that as per sub-section (2) of Section 1 of the RTI Act, the Act extends to the whole of India except the State of Jammu & Kashmir and, therefore, it has no "extra territorial operation". The CPIO stated that in view of the above, the activities of public sector banks, incorporated in India, in other countries would be not be subject to the provisions of the RTI Act. The CPIO also mentioned Section 47 of the Banking Act of Singapore to deny the information. In his order, the FAA stated that in view of the above section of the Banking Act of Singapore, which prohibits disclosure of the kind of C I C / S H / A / 2 0 1 4 / 0 0 2 8 1 0 information sought by the Appellant, disclosure of such information by the bank would also attract the provisions of Section 8 (1) (a) of the RTI Act.

3. The Appellant cited the Commission's order No. 1744/ICPB/2008 dated 25.3.2008 in Devanga Sangia Rachappa vs. State Bank of India, in which the Commission stated: "I direct SBI to issue a circular to all its foreign branches that they are covered under the RTI Act and instruct them to reply to all RTI applications received by them."

4. We have considered the records and the submissions of both the parties and note the following observations made by the High Court of Delhi in its judgment dated 28.7.2010 in Union of India & Anr. Vs. Mrs. Veena Kohli [W.P.(C) 7604/2009 and CM 3 7 3 9 / 2 0 0 9 a n d 4 3 1 o f 2 0 1 0 ] : □  
"16. The issue really is `who the public authority is, which is holding the information and not `where it is holding such information. The public authority here is the army. The information held by it may pertain to an event which transpired in J&K, and may even be held by it in J&K. That by itself does not insulate such information from disclosure. Even information concerning the investigation by the J&K police, if available also with the army, would not be insulated only because the RTI Act does not apply to J&K. The problem of residents of J&K accessing information held by the CIC/SH/A/2014/002810 central government may arise if there are no PIOs appointed by the central government or the army in the departments in J&K. However, conscious of this difficulty, some of the central government departments have in fact appointed PIOs in J & K. That is on a correct understanding of the legal position." In view of the foregoing, we do not agree with the submission of the Respondents that the RTI Act does not apply to the activities of their branch in Singapore.

5. Further, we note that Section 47 (1) of the Singapore Banking Act (Chapter 19) reads: "Customer information shall not, in any way, be disclosed by a bank in Singapore or any of its officers to any other person except as expressly provided in this Act." The FAA has stated that violations of the above provision by banks in Singapore may attract a fine up to Singapore \$ 2,50,000. Likewise, if the Respondent Bank's officers contravene the provisions of the above Act, they may be fined up to Singapore \$ 1,25,000 or imprisoned for a term of up to three years. However, we note that the third schedule to the above Act deals, inter alia, with disclosure of information in cases where the bank concerned is a bank incorporated outside Singapore or a foreign owned bank incorporated in Singapore. In this case, the Act provides that no deposit information shall

be disclosed to the parent supervisory authority of the bank. It further provides that the parent supervisory authority is prohibited by the laws applicable to it from disclosing the C I C / S H / A / 2 0 1 4 / 0 0 2 8 1 0 customer information obtained by it to any person unless compelled to do so by the laws or courts of the country or territory where it is established. From the above, it appears that the information sought by the Appellant can be disclosed by the parent supervisory authorities of the Singapore branch of the Respondent Bank, in case so warranted under the RTI Act. In our view, the issue of Section 8 (1) (a) is not relevant in this case.

6. We now come to the clauses of the RTI Act applicable in this case. In one of the points of the RTI application, the Appellant has sought minutes of all the meetings of the Board of Directors of the bank April 2010 onwards. Such minutes invariably contain a good deal of information of commercial confidence for the bank, the disclosure of which could harm the competitive position of the bank. Therefore, this information cannot be disclosed in a wholesale manner. There are cases, where issues of specific interest / concern to RTI applicants, considered by the Board of Directors, are involved. In such cases, each request has to be considered on its own merits. In this case, the Appellant has sought the entire copies of the minutes of the meetings for a period of over four years. Such disclosure is exempted under Section 8 (1) (d) of the RTI Act. The Appellant has not established any larger public interest for disclosure of this information to him. In so far as the information concerning the borrowers of the bank is concerned, we note that it is held by the bank in a fiduciary capacity and is exempted from disclosure under Section C I C / S H / A / 2 0 1 4 / 0 0 2 8 1 0 8 (1) (e) of the RTI Act. Once again, the Appellant has not established any larger public interest for disclosure of this information to him. In view of the foregoing, we uphold the decision for the Respondents to deny the information in response to the RTI application dated 16.8.2014 under Section 8 (1) (d) and (e) of the RTI Act.

7. In the RTI Application dated 18.8.2014 (File No. 2997), the Appellant sought information regarding the complaints against its officers received by the bank and the loans availed of by the CMD of the bank. The entire information was denied by the CPIO under Section 8 (1) (d), (e), (g), (h) and (j) of the RTI Act. The Appellant challenged this decision. We have considered the records and the submissions made by both the parties. The information sought at the first two points is of a general nature regarding the number of complaints and the CPIO is directed to provide it, based on the records of the Respondents, to the Appellant. The information sought at points No. 3 to 9 is specific information regarding the nature of complaints and action taken on various complaints. At point No. 10, information has been sought in respect of the loans taken by the CMD of the bank. In the above context, we note the following observations made by the Supreme Court in its judgment dated 3.10.2012 in Girish Ramchandra Deshpande Vs. Central Information Commissioner & Ors. : □ C I C / S H / A / 2 0 1 4 / 0 0 2 8 1 0 "12. The petitioner herein sought for copies of all memos, show cause notices and censure/punishment awarded to the third respondent from his employer and also details viz. movable and immovable properties and also the details of his investments,

lending and borrowing from Banks and other financial institutions. Further, he has also sought for the details of gifts stated to have accepted by the third respondent, his family members and friends and relatives at the marriage of his son. The information mostly sought for finds a place in the income tax returns of the third respondent. The question that has come up for consideration is whether the above-mentioned information sought for qualifies to be "personal information" as defined in clause (j) of Section 8(1) of the RTI Act.

13. We are in agreement with the CIC and the courts below that the details called for by the petitioner i.e. copies of all memos issued to the third respondent, show cause notices and orders of censure/punishment etc. are qualified to be personal information as defined in clause (j) of Section 8(1) of the RTI Act. 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 C I C / S H / A / 2 0 1 4 / 0 0 2 8 1 0 disclosure of which would cause unwarranted invasion of privacy of that individual. Of course, in a given case, if 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, appropriate orders could be passed but the petitioner cannot claim those details as a matter of right.

14. 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." In view of the foregoing, the information sought by the Appellant in his RTI application dated 18.8.2014 is exempted from disclosure under Section 8 (1) (j) of the RTI Act. The Appellant has not established any larger public interest for its disclosure to him. Accordingly, we uphold the decision of the Respondents to deny this information under Section 8 (1) (j).

8. The Appellant's RTI application dated 5.8.2014 (File No. 2810) sought information regarding the designing of website of the bank in India and abroad and some related C I C / S H / A / 2 0 1 4 / 0 0 2 8 1 0 issues, including a copy of the contract signed by the bank with the company assigned the above work. The CPIO provided some information, while denying the remaining information under Section 8 (1) (d) and (e) of the RTI Act. The Appellant challenged the denial of information and cited the judgment dated 8.8.2007 of the Jharkhand High Court in State of Jharkhand & Anr. Vs. Naveen Kumar Singha & Anr. in favour of his RTI request. The FAA, in his order dated 21.10.2014, has stated that the bank's contracts / agreements with their service providers include non-disclosure agreement also and

certain clauses and provisions regarding confidentiality. He has further mentioned an agreement with Manipal Global Education Services Pvt. Ltd., in which the public authority has agreed to keep confidential all information, whether by way of documents, memoranda, notes, other writings and any other matters.

9. We have considered the records and the submissions made by both the parties in respect of the RTI application dated 5.8.2014 and note that there is no justification for the Respondents to deny the entire information in response to some of the points. This is particularly so because it pertains to a contract awarded from public funds. Moreover, from the response of the CPIO to the RTI application dated 11.9.2014, it appears that bids for the contract were invited through "word of mouth communications" and "known references."

They can disclose such information, while severing any information of commercial confidence under Section 10 of the RTI Act. Taking the above into account, we note that the information in response to points No. 1, 3 and 8 has already been provided and we see no ground to interfere with the same. With regard to point No. 10, regarding copy of the contract between the bank and service provider, we note that it is a commercial agreement between the two parties and a matter of commercial confidence for them. Therefore, the CPIO is directed to resort to the procedure laid down in Section 11 of the RTI Act by making a reference to the third party service provider and thereafter take a decision on the Appellant's request for information at point No. 10 of the RTI application. The CPIO is directed to provide the specific information sought by the Appellant at points No. 2, 4 (only the name of the authority that approved the appointment of the service provider), 5,6 (only the information regarding the charges for designing the website, but not the copies of vouchers etc.), 7 and 9. In providing the information on these points, the CPIO may exclude/ sever information, if any, of commercial confidence, including any technical / financial data provided by the service provider, covered by Section 8 (1) (d) of the RTI Act or any specific confidentiality clause in the agreement of the Respondents with the service provider, under Section 10 of the RTI Act.

10. In the RTI application dated 11.9.2014 (File No. 3091), the Appellant sought information regarding the contract awarded to M/s Revalsys Technologies for Web Designing and related issues. The CPIO provided some information, while denying the remaining information under Section 8 (1) (d) and (e) of the RTI Act and his decision was upheld by the FAA. We have considered the records and the submissions made by both the parties. The considerations applicable in this case are the same as those applicable in the case of the RTI application dated 5.8.2014 on File No. 2810. We note that the information in response to points No. 1 to 5 of the RTI application dated 11.9.2014 has been provided by the CPIO and we see no ground to interfere with the same. At point No. 12, the Appellant had enquired about the involvement of the Chairman and Managing Director and the Executive Director in the finalization of the order of M/s Revalsys Technologies. We note that no specific information has been sought in this case and the remaining information sought by the Appellant in his RTI applications dated 5.8.2014 and

11.9.2014 will cover the role of the senior officers involved in the award of the contract. Further, the information sought at points No. 8 and 9, regarding the participants in the presentation of M/s Revalsys Technologies and the video footage of their presentation cannot be provided as it is information of commercial confidence for them, exempted from disclosure under Section 8 (1) (d) of the RTI Act. However, the CPIO is directed to provide to the Appellant the information in response to points No. 6 (only the names of the companies, the date and venue of the presentation), 7, 10 and 11. In providing the C I C / S H / A / 2 0 1 4 / 0 0 2 8 1 0 information in response to the above points, the CPIO may exclude/ sever information, if any, of commercial confidence, including any technical / financial data provided by the service provider, covered by Section 8 (1) (d) of the RTI Act or any specific confidentiality clause in the agreement of the Respondents with the service provider, under Section 10 of the RTI Act.

11. The CPIO is further directed to complete action on our directions in paragraphs 7, 9 and 10 above within thirty days of the receipt of this order, under intimation to the Commission. Such information, as is provided, should be provided free of charge.

12. With the above directions and observations, the four appeals are disposed of.

13. Copies of this order be given free of cost to the parties.

S d / □ ( S h a r a t S a b h a r w a l ) I n f o r m a t i o n C o m m i s s i o n e r  
Authenticated true copy. Additional copies of orders shall be supplied against application and payment of the charges prescribed under the Act to the CPIO of this Commission.

(Vijay Bhalla)

Deputy Registrar CIC/SH/A/2014/002810