



राज्य सूचना आयोग, जयपुर
ऑर्डर शीट

अपीलकर्ता

प्रत्यर्था

अपील संख्या

वर्ष

दिनांक	आदेश	आदेश के अनुसरण में जारी पत्र की संख्या व तिथि
	<p style="text-align: center;">APPEAL No. 6501/2011</p> <p>Appellant: V/S Respondent:</p> <p>Ms. Sugandha, A-1, Sarvodya Enclave, Ground Flour, New Delhi – 110017.</p> <p>SPIO & Superintendent, Central Jail, Sri Ganganagar (Raj.)</p> <p style="text-align: right;">Reserved on : 8.12.14 Pronounced on : 22.12.2014</p> <p>Appellant : Present For respondent : none</p> <p>1. Aggrieved of the denial of information sought by the appellant's RTI application dated 31.3.2011 and the subsequent inconclusive first appeal, this second appeal was preferred.</p> <p>2. The appellant by her application referred to above, asked for information on foreign nationals detained in the central and sub jails of Sri Ganganagar, from the SPIO (State Public Information Officer) of Central Prison Sri Ganganagar. The SPIO refused to furnish the information on the ground that it was exempted from disclosure under section 8(1)(a) and (g) of the RTI Act.</p> <p>3. I heard the appellant and perused the file.</p> <p>4. The appellant argued that the SPIO failed to explain as to how the relationship with a foreign state would be jeopardized by the disclosure of the information. As no reasons for invoking the</p>	

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	<p>provisions of 8(1)(a) and (g) have been cited and as it is in the discretion of the SPIO to provide the information , the same should have been furnished. The grounds of 8(1)(g) regarding endangering life and safety need to be specific to persons facing such threats and so also the assistance given by any prisoner in confidence for law enforcement and security purposes.</p> <p>5. While citing the Maharashtra Information commission's order dated 12.4.13, it was argued that in this case too, the public interest outweighed the adverse effects of disclosure and therefore, the appeal deserves to be accepted. The appellant further argued that the Supreme Court by its order dated 7.10.1994 in R. Rajagopalan v/s State of Tamil Nadu held that right to privacy does not subsist once a matter becomes matter of public record. While the prison departments of other states provide detailed information on foreign national prisoners in their websites for e.g., West Bengal Correctional Services, there is no ground for not disclosing such information by the SPIO.</p> <p>6. I considered the argument of the appellant. No doubt the issues raised by the appellant regarding the prisoners of foreign origin are relevant and the information on them may facilitate the identification and repatriation of prisoners detained illegally and unnecessarily. But it is also to be seen whether revealing details of prisoners that would easily identify a person and the prison he/she is detained would endanger his/her safety/ life and the security environment of the State.</p> <p>7. The Maharashtra CIC's order, referred to by the appellant, dealt with the information of under trials who remained in jail for more than 3 years. In the instant case the effort is to get details on the cases of foreign nationals illegally and unnecessarily detained, despite the completion of their sentence so as to facilitate their early repatriation and saving of public funds spent on such prisoners.</p> <p>8. The Maharashtra CIC's order pertain to under trials and it is not clear as to what details were sought of under trials. If it</p>	



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	<p>related to only numbers and not personal details and did not involve the sensitivity of foreign nationals housed in prisons of border district, the comparison is misplaced. It may also be mentioned that the commission has to consider the geography imposed security concerns of the state, while passing orders on sensitive matters involving foreign national prisoners held in prisons of districts adjoining international order.</p> <p>9. The Supreme Court ruling, quoted by the appellant, is in the context of publishing an article of a convict in a magazine, purportedly with his permission, while he was still in prison. The core issue examined in the ruling relate to the freedom of press v/s the privacy of individuals. The issue was whether the freedom of press would be fettered by preventing publication based on some officials' apprehension that privacy would be intruded. Before passing the said order Hon'ble Supreme Court adapted the U.S. Rulings to Indian cultural and administrative context. Similarly applicability of this ruling is to be seen in the context of time line and subsequent RTI law passed by the legislature and the rulings thereon.</p> <p>10. I am afraid that this ruling that predates the RTI act at least by a decade, cannot be applied to the instant case. It may also be mentioned that with regard to personal information that are exempted from disclosure under the express provisions of the RTI Act and the latest rulings of the Supreme Court, by its orders dated 14.07.2011 in Ram Jethmalani & Ors V/s Union of India & Ors (CWP 176 of 2009), dated 09.08.2011 in CBSE V/s. Aditya Bandhopadhyaya and dated 03.10.2012 in Girish Ramchandra Deshpande V/s CIC clearly indicate that the earlier ruling quoted</p>	

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	<p>by the applicant cannot be applied to RTI cases. The RTI act besides providing a bar on personal information, also provides for an opportunity of being heard to the third party under section 11, if the information relate to that party.</p> <p>11. I agree with the appellant that the grounds for applying the provisions of section 8(1) (a) (g) have not been elaborated by the respondent. But not doing so cannot be taken to be no grounds for invoking these provisions. Sri Ganganagar is a district adjoining an international border and divulging information to identify a foreign prisoner and the prison of his/her detention poses potent threat to the safety of not only the prisoner [8(1)(g)] but also other inmates and incitement of an offence [8(1)(a)], possibly within the prison itself. The argument that grounds with regard to specific individuals facing such threat should have been given is not tenable because of the comprehensive nature of information sought on unspecified number of foreign nationals including name, father's name, nationality, case reference number etc.</p> <p>12. Keeping in view the sensitive nature of the border districts and the prevailing environment of terror threats and propensity for crime, in my view it would be inadvisable to provide detailed information about foreign national prisoners detained in the prisons and jails of Sri Ganganagar.</p> <p>13. Having said that, this commission is not oblivious to the compulsions of fostering human rights concerns, being an instrumentality to provide justice to people. But at the same time the security concerns of the prisoners and the State cannot be ignored. In order to balance these conflicting requirements, the numbers of prisoners in each category could be provided. Once the information on category wise number of prisoners is available, the requirement of person specific information could be narrowed down to minimal so that on a fresh RTI application information on a few persons could be examined for disclosure</p>	



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	<p>after observing the procedure prescribed under sec.11 of the RTI Act and keeping in view the provisions of Sec. 8(1).</p> <p>14. The appeal is, therefore, partially accepted and the respondent SPIO is directed to provide the information category wise, nationality wise indicating only the number of prisoners without revealing their personal details within 15 days of receipt this order.</p> <p>15. It is also directed that the Public Authority (D.G Prisons) should facilitate displaying such information about prisoners in their website as it is being done in West Bengal Correctional Services website (www.wbcorrectionalservices.gov.in) wherein correctional home wise UTP, convict, condemned and other male/female/children prisoners' numbers are given for public information.</p> <p>16. It is further directed that besides sending the copy of the order to both the parties, a copy shall be sent to D.G. (Prisons).</p> <p>(T. Srinivasan) Chief Information Commissioner.</p>	