

केन्द्रीय सूचना आयोग  
Central Information Commission  
बाबागंगनाथमार्ग, मुनिरका  
Baba Gangnath Marg, Munirka  
नईदिल्ली, New Delhi – 110067

द्वितीय अपील संख्या / Second Appeal No. **CIC/BARCM/A/2018/173726**

Smt. Vidya Rupesh Jangam

... अपीलकर्ता / Appellant

VERSUS/बनाम

PIO

...प्रतिवादीगण / Respondent

Chief Administrative Officer (A)  
Bhabha Atomic Research Centre,  
Centre Complex,  
3<sup>rd</sup> Floor, BARC Trombay,  
Mumbai-400085

Date of Hearing : 03.12.2020

Date of Decision : 04.12.2020

**Chief Information Commissioner : Shri Y. K. Sinha**

**Relevant facts emerging from appeal:**

RTI application filed on : 25.07.2018

PIO replied on : 30.08.2018

First Appeal filed on : 01.10.2018

First Appellate Order on : 06.11.2018

2<sup>nd</sup>Appeal/complaint received on : 24.12.2018

**Information sought and background of the case:**

The Appellant filed an RTI application dated 04.04.2018 seeking information with respect to the proceedings initiated, if any, against Dr. Mrs Kulkarni of BARC Hospital for criminal misconduct in the backdrop of the following background:

1. Despite knowing qualification and utility limitations of Dr.Mrs. More, Dr.Mrs. Kulkarni, on numerous occasions continued recommending her for promotions and thereby facilitated obtaining for Dr.Mrs. More valuable thing and pecuniary advantage, which constitutes abuse by Dr.Mrs. Kulkarni of her position and, thus, attracts S. 13 ( 1 ) ( d ) ( ii ) of Prevention of Corruption Act, 1988.
2. Because of said limitations, numerous promotions of Dr.Mrs. More was not in the interest of BARC and, thus, in public interest. Despite thereof, Dr.Mrs. Kulkarni continued recommending and facilitating numerous promotions to Dr.Mrs. More and thereby obtained for Dr.Mrs. More the valuable thing or pecuniary advantage of promotions, which attracts s. 13 ( 1 ) ( d ) ( iii ) of the said Act.

The PIO, Chief Administrative Officer (A) vide letter dated 30.08.2018 stated that the information sought by the Appellant is personal information of the individual, disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual, hence exempt under Section 8(1)(j) of the RTI Act, 2005. A reference was also made to the decision of the Hon'ble Supreme Court in its judgement in Civil Appeal No 22/2009 dated 31.08.2017. Further, the PIO in response to query no. 3(III)(a) stated that no criminal proceeding has been initiated against anybody for the recruitment of Dr. (Smt.) Nirupama More.

Dissatisfied with the response received from the PIO, the Appellant filed a First Appeal dated 01.10.2018. The FAA, Controller, BARC vide order dated 06.11.2018 upheld the reply of the CPIO.

Feeling aggrieved and dissatisfied, the Appellant approached the Commission with the instant Second Appeal.

### **Facts emerging in Course of Hearing:**

A written submission has been received from PIO and Chief Administrative Officer (A) vide letter dated 26.11.2020 wherein while reiterating the reply / order of the CPIO/ FAA a reference was made to the decision of the Hon'ble High Court of Delhi in THDC India Ltd vs R.K. Raturi in WP 903/2013 wherein it was mentioned that gradings/ ratings and interview marks contained in the DPC proceedings can be disclosed only to the employee concerned.

In order to ensure social distancing and prevent the spread of the pandemic, COVID-19, audio hearings were scheduled after giving prior notice to both the parties.

The Appellant was not present during the hearing despite being informed about the venue of video conferencing in advance.

The Respondent is represented by Shri Sriram S, Chief Administrative Officer through audio conference. Reiterating the response of the CPIO/ FAA, he stated that Dr More was recruited after following the due process for selection as per the terms of Advertisement No 4/96 and that there existed no irregularity in her selection.

### **Decision:**

Keeping in view the facts of the case and the submissions made by the Respondent, the Commission notes that an appropriate response as per the provisions of the RTI Act, 2005 is provided by the Respondent. It is evident that the information sought pertains to seeking details of the disciplinary proceedings initiated against a third party employee which is exempted as per the provisions of the RTI Act, 2005 unless a larger public interest warranting its disclosure was justified by the information seeker which is not the case in the present instance. In this context, the Commission refers to the judgement of the Hon'ble High Court

of Delhi UPSC vs. R.K. Jain, LPA No. 618/2012 dated 06.11.2012 wherein it was held as under:

“.....the ratio of the dicta aforesaid of the Supreme Court is that **the disciplinary orders and the documents in the course of disciplinary proceedings are personal information within the meaning of Section 8(1)(j) and the disclosure of which normally has no relationship to any public activities or public interest and disclosure of which would cause unwarranted invasion of the privacy of an individual.**”

Furthermore, in a recent judgment dated 13.11.2019 in Civil Appeal No. 10044 OF 2010 with Civil Appeal No. 10045 OF 2010 and Civil Appeal No. 2683 of 2010, the Hon'ble Supreme Court of India, had observed as under:

“59. Reading of the aforesaid judicial precedents, in our opinion, would indicate that personal records, including name, address, physical, mental and psychological status, marks obtained, grades and answer sheets, are all treated as personal information. **Similarly, professional records, including qualification, performance, evaluation reports, ACRs, disciplinary proceedings, etc. are all personal information.** Medical records, treatment, choice of medicine, list of hospitals and doctors visited, findings recorded, including that of the family members, information relating to assets, liabilities, income tax returns, details of investments, lending and borrowing, etc. are personal information. Such personal information is entitled to protection from unwarranted invasion of privacy and conditional access is available when stipulation of larger public interest is satisfied. This list is indicative and not exhaustive.”

Thus, no further intervention of the Commission is required in the matter. With the above observation, the instant Second Appeal stands disposed off accordingly.

**Y. K. Sinha** (वाई. के. सिन्हा)  
Chief Information Commissioner (मुख्य सूचना आयुक्त)

Authenticated true copy  
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