

**HIGH COURT OF CHHATTISGARH, BILASPUR****WPC No. 997 of 2019**

Vidyadhar Mishra S/o Satyadev Mishra Aged About 68 Years R/o In front of Railway Station Raipur Dist. Raipur Chhattisgarh
--- **Petitioner**

Versus

1. State of Chhattisgarh through Secretary, State Information Commission, Nirmal Chhaya Bhawan Meera Dataar Road, Shankar Nagar, Raipur Chhattisgarh
2. Shri J.S. Armo, Registrar Office, Collectorate Campus, Raipur Chhattisgarh (First Appellate Authority).
3. Shri P.K Chivram, Registrar Office Collectorate Campus Raipur Chhattisgarh (Public Information Officer) --- **Respondents**

Amicus Curiae : Shri Kshitij Sharma, Advocate
For Petitioner : Shri Raj Kumar Pali, Advocate
For Respondents/State : Shri Sudeep Verma, Dy.G.A.
For Respondent No.3 : Mr. Shyam Sundar Tekchandani, Adv.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board**09-05-2019**

1. The present petition is against the order dated 24-05-2014 passed by the Chief Information Commissioner, Raipur in appeal proceeding No.A/2861/2013 whereby the second appeal was rejected. The petitioner initially on 24/09/2013 sought information that at village Fafadih Tahsil & District Raipur, Mr. Satyadev and Jagnarayan son of Raja ram Mishra owned a land bearing Khasra No. 2292 ad-measuring 2.02 acres. It was stated that the said land was sold between the year 1935 and 1943 and

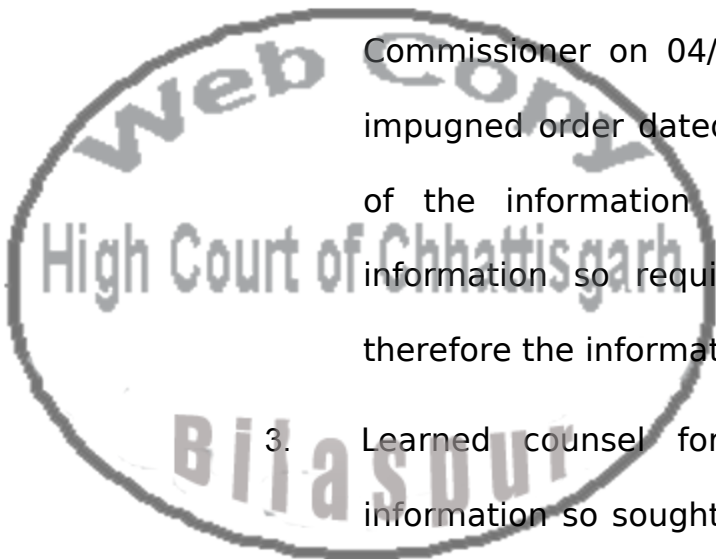


two informations/details were sought i.e.,

(A) in between period of 1935-1943 on what date parts of land were sold and to whom ?

(B) The certified copies of the sale deeds thereof may be provided.

2. The said application was rejected by the Information Officer of the office of Sub-Registrar, Raipur on 11/10/2013. The petitioner preferred First Appeal before the appellate authority i.e. Registrar under Section 19 of the Right to Information Act on 02/11/2013. The appellate authority too dismissed the appeal and thereafter the second appeal was preferred before the Chief Information Commissioner on 04/2/2014. The said appeal was dismissed by impugned order dated 24/05/2014 on the ground that particulars of the information sought for has not been provided and information so required is in the form of questionnaire and therefore the information can not be supplied.
3. Learned counsel for the petitioner would submit that the information so sought for is comprised within the records of Sub-Registrar and it will be covered under the definition of of 2(f) of the Right to Information Act 2005 as such by denial of information, the illegality has been committed. Consequently the respondent may be directed to supply such information to the petitioner.
4. Shri Kshitij Sharma, Advocate, was requested to assist the Court and was appointed as Amicus Curiae. He argued the case at length. Referring to definition under sub-section (f) & (g) of section 2 of the Act, it is contended that the information under the Act of





2005 can only be furnished when the authorities are required to keep the same and they are required to maintain such information in their official records under the particular Act itself or any other law. It is further submitted that since the case pertains to registration of immovable property consequently it will have reference to Indian Registration Act and the rules made thereunder. Referring to Section 51, 55 & 57 of the Indian Registration Act, it is stated that the particulars so sought for do not fall categorically under the said Sections since no particulars were given about the transaction. It is further submitted that Section 57 of the Registration Act 1908, the petitioner could have searched the documents and thereafter could have given the particulars with respect to the Rules framed under the Act, styled as C. G. Registration Rules 1939. It is contended that Rule 87 of Rules 1939 mandates that the books and index shall be kept in the Registration Office which do not particularly require and if it is read with Appendix B which is form of Book No.1 it only contemplates the name of Village, Tahsil and District i.e., territorial description and nature and value of the instrument. Therefore, to obtain information of the like nature, the petitioner should have established that the information which is sought for is preexisting on the record. The reliance was placed in **(2011) 8 SCC 497** Para 63 & 67 – **Central Board of Secondary Education Vs. Aditya Bandopadhyay** and submits that under the circumstances, if such a request for information as sought by way of indiscriminate and impractical demands or direction under the RTI Act is acceded to, it would be counter productive as it would adversely affect the





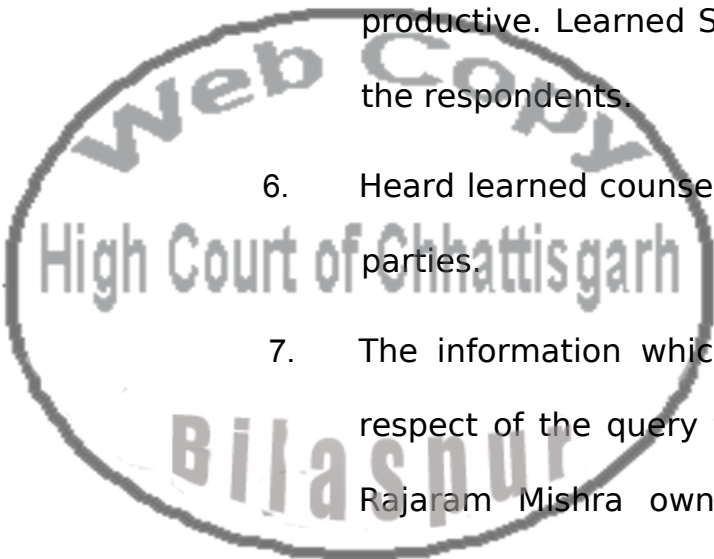
efficiency of the public authority and result in the executive/public authority getting bogged down with the non-productive work of collecting and furnishing information. Therefore, the order dated 24.05.2014 is well merited.

5. Counsel for respondent No. 1 would submit that the information sought for was in form of questionnaire and in absence of any particulars the Public Officer is not expected to search for on behalf of the petitioner and thereafter give the information. He further submits that if such request is acceded to then the particular government office will be completely rendered non-productive. Learned State counsel also supports the contention of the respondents.

6. Heard learned counsel for the parties and perused the documents.

7. The information which was sought for by the petitioner was in respect of the query that one Satya Dev and Jagnarayan son of Rajaram Mishra owned a land bearing Khasra No. 2292 ad-measuring 2.02 acres at village Fafadih, Tahsil & District Raipur wherein petitioner sought for information that in between the period of 1935-1943 how many sales were made and to whom and how much parts were sold ?

8. The second information was sought for as to when the particulars of such sale deeds are recovered then the certified copy of such sale deeds be supplied to him. The said application was dismissed by the information officer which was subject of First Appeal and the First Appellate Authority too dismissed the contention of the





petitioner which was further taken up in the Second Appeal wherein the impugned order dated 24/05/2014 was passed.

9. Section 2(f) of the Right to Information Act 2005 defines the “information” which reads as under :

“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”

10. Section 2(j) defines the Right to Information. The reading of Section 2(f) would show that information which is sought for must be pre-existing on the records of the public authorities under any law for the time being in force. Since the issue in hand relates to registration of the sale deed by the office of Sub Registrar and the information was sought for, section 51 of the Registration Act 1908 would be relevant which reads as under :

51. Register-books to be kept in the several offices.- (1) The following books shall be kept in the several offices hereinafter named, namely :-

A-- In all registration offices --

Book 1, “Register of non-testamentary documents relating to immovable property”.

Book 2, “Record of reasons for refusal to register”

Book 3, “Register of wills and authorities to adopt” and Book

Book 4, “Miscellaneous Register”.

B-In the offices of Registrars –

Book 5, “Register of deposits of wills”

11. The query of petitioner would fall under the Book-1 which relates

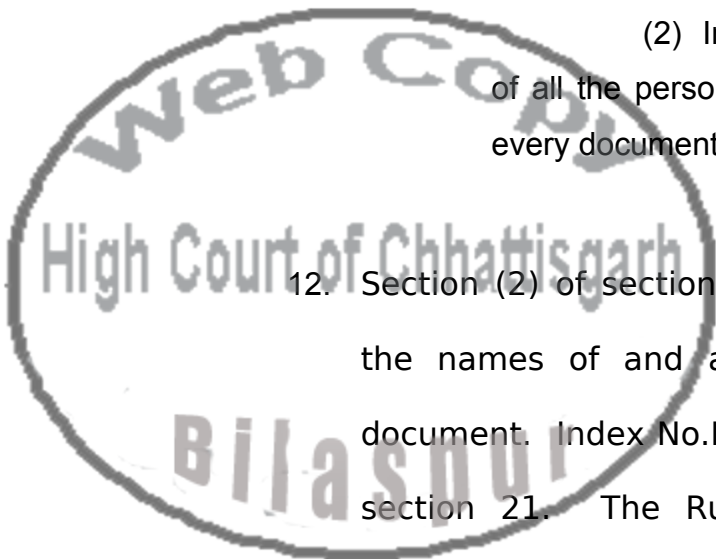


to Register of non-testamentary documents relating to immovable property. Thereafter, section 52 of the Registration Act 2008 speaks of the duties of registering officers when document is presented and thereafter section 55 would be relevant which speaks of “indexes” to be made by the registering offices and their contents. Relevant part of section 55 for the purpose of this case is reproduced here-in-below :

“55. Indexes to be made by registering officers, and their contents.-- (1) Four such indexes shall be made in all registration offices, and shall be named respectively, Index No.1, Index No.II, Index No.III and Index No.IV.

(2) Index No.I shall contain the names and additions of all the persons executing and of all persons claiming under every document entered or memorandum filed in Book No.1”

12. Section (2) of section 55 stipulates that Index No.1 shall contain the names of and additions of all persons who execute the document. Index No.II shall contain such particulars mentioned in section 21. The Rules which is framed and styled as C.G. Registration Rules, 1939. Rule 87 mandates that the books and indexes shall be kept in registration offices and the Appendix -B which forms registration of book etc., would show that the registering officer is required to record the names of territorial description of the property. The information which was sought for by the petitioner was in nature of questionnaire meaning thereby in order to provide the information, the office of Sub-Registrar was required to make a search on behalf of the petitioner and thereafter take out the information and then supply it to petitioner. Section 57 of the Registration Act, 1908 prescribed that subject to

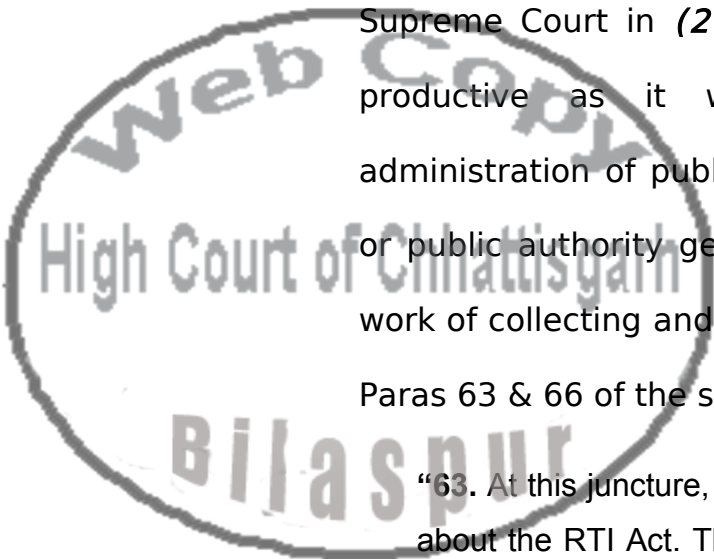




previous payments of the fee, Book Nos. 1 & 2 and the Indexes relating to Book No.1 shall be open to inspection by any person applying to inspect the same.

13. In the instant case, it appears that from the kind of information as sought for, the petitioner wanted to pass his questionnaire buck on the registration office so as to search out the sale made in a particular period and thereafter give this information by obtaining the copy of it. If such request is acceded to by indiscriminate and impractical demands or directions under the RTI Act for disclosure of such information, then in view of the expression made by the Supreme Court in *(2001) 8 SCC 497*, it would be a counter productive as it will adversely affect the efficiency of administration of public authority and further result in executive or public authority getting bogged down with the non-productive work of collecting and furnishing information. For ready reference, Paras 63 & 66 of the said decision are relevant and quoted below:

“63. At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of “information” and “right to information” under clauses (f) and (j) of Section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics an applicant may access such information, subject to the exemptions in Section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non-available information and then furnish it to an applicant. A public authority is also not required to furnish information which require drawing of inferences





and/or making of assumptions. It is also not required to provide “advice” or “opinion” to an applicant, nor required to obtain and furnish any “opinion or “advice” to an applicant. The reference to “opinion” or “advice” in the definition of “information” in Section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act.”

“67. Indiscriminate and impractical demands or directions under the RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counterproductive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritising “information furnishing” at the cost of their normal and regular duties.”

14. In view of the decision of the Supreme Court in *C.B.S.E. v. Aditya Bandopadhyay (supra)* the information so sought for by the petitioner was in questionnaire in nature and unless and until it is established that certain information exists in the documents, in the index, the officers cannot be directed to make a roving enquiry on behalf of the petitioner to make such information available to



him. When the Act provides means and measure to get the information as a statutory right then instead of doing it in self, it cannot be passed on to the officer of department to do so in the garb of RTI Act 2005. The RTI cannot be misused to pass on a duty of applicant to be done by officer concerned and to allow enjoy a joy ride to the petitioner. The application itself was misconceived. Hence, the order impugned do not require any interference. Accordingly, the petition is dismissed.

15. Before parting with the case, the Court extends sincere thanks to Mr. Kshitij Sharma, *Amicus Curiae* for rendering valuable assistance to the Court.



Sd/-
GOUTAM BHADURI
JUDGE