

P.C. Wadhwa v/s Central Information Commission & others

LPA No. 1252 of 2009

Decided On, 29 November 2010

At, High Court of Punjab and Haryana

By, THE HONOURABLE CHIEF JUSTICE MR. MUKUL MUDGAL & THE HONOURABLE MR. JUSTICE RANJAN GOGOI

For the Appellant: Mr. B.R.Mahajan, Advocate. For the Respondent:

Mr. Mukul Mudgal, C.J.:-

This is an appeal filed against the judgment of learned Single Judge dated 29.7.2009, dismissing the writ petition filed by the petitioner for quashing the order dated 28.12.2006 whereby the Central Information Commission had declined the prayer to supply information in respect of certain public figures, demanded by the petitioner.

2. The petitioner had filed an application under the Right to **Information Act, 2005** against respondent i.e. Registrar General, Census Operations, New Delhi, seeking information regarding certain individuals, which according to him are the leaders of the nation and the information regarding their religion was sought in public interest. The said request for supplying the information was declined by the respondent on the ground that no person had a right to inspect any book, register or record made by a Census Officer in the discharge of his duty as such or any item under Section 10 of the Act. The petitioner challenged that order before the higher officer, who rejected the prayer by holding that for preparing census, facts are collected from individuals in a household, which are confidential in nature and are used only for statistical purposes. Therefore, the petitioner's request for supplying information was dismissed. This order was challenged before the Central Information Commission by filing an appeal which was also dismissed, the order was sought to be reviewed by the petitioner and review application was also dismissed by the Central Information Commission.

3. A reading of the order would go on to show that the request of the petitioner was declined by the authority in view of the [provisions of Section 15 of the Census Act, 1948](#) according to which

No person shall have a right to inspect any book, register or record made by a census-officer in the discharge of his duty, or any schedule delivered under section 10, and notwithstanding anything to the contrary in the [Indian Evidence Act, 1872](#), no entry in any such book, register, record or schedule shall be admissible as evidence in any civil proceeding criminal proceeding other than a prosecution under this Act or any other law for any act or omission which constitutes an offence under this Act.

4. Aggrieved by this order, the petitioner filed an appeal before the Appellate Authority and the said Appellate Authority while relying upon **Section 8 (1)(j) of the Right to Information Act, 2005**, dismissed the appeal. Relying upon the above information, the Appellate Authority while dismissing the appeal filed by the petitioner also observed that it was quite clear that the information given by the citizens for Census Operation is treated as personal and confidential, and all records, registers, etc. maintained in respect of that information is not allowed to go into public domain on account of the strict confidentiality with which this information is treated.

5. The information requested by the appellant is in respect of personal data furnished by third parties to the Census Officers in terms of the provisions of the Census Act. This information was provided with a strict understanding that it shall not be disclosed and shall always be held as confidential. In that sense, its disclosure is barred by **Section 8(1) of the RTI Act**.

6. The RTI Act also very clearly bars any disclosure of such information under **Section 8(1)(i)**. **This Section** prohibits disclosure of personal information which have had no relationship with a public activity or interest or which would amount to invasion of privacy of an individual. The information which the appellant has now requested attracts all the ingredients of this exemption.

The court noted that A question may arise as to whether the explicit [provisions of the Census Act of 1948](#) stand abrogated by the overriding effect given to the RTI Act of 2005. In this context, it is pertinent to refer to the **provisions of Section 22 of the RTI Act which states that** The provisions of this 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 this Act.

The court further observed that the RTI Act, being a recent legislation, will over-ride the inconsistent provisions contained in other enactments, including the Census Act of 1948 but this over-riding effect is only to the extent of inconsistency. It is not that section 22 of the rti act has the effect of either abrogating or repealing all other enactments dealing with furnishing of information to an information-seeker. In the instant case, the denial of information has been under the **provisions of Section 8(1)(i) of the RTI Act** and not under the Census [Act](#). **If the provisions of Census Act, 1948** are read together with the **provisions of Section 8(1)(e) and Section 8(1) (i) of the RTI Act**, it has to be held that the Appellant authority had correctly concluded that the information as requested by the appellant could not be disclosed.

6. Aggrieved by this the petitioner filed a writ petition out of which this appeal has. The learned Single Judge taking the above findings into consideration held that for preparing the census, facts are collected by the authorities in confidence and thus they cannot be disclosed to any other individual. The learned Single Judge further held that orders passed by the Government of India, Ministry of Home Affairs, Directorate of Census Operations, Delhi were not challenged by the appellant and thus have become final. Both these orders declined to give information sought by the appellant on the basis of [Section 15 of the Census Act, 1948](#), already extracted above.

7. [Section 22 of the Right to Information Act, 2005](#), on which reliance is placed by the appellant states that The provisions of this 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 this Act.

8. The main substance of the appellant's plea is that the person against whom the information is sought are an important public figure and he as a citizen is entitled to know the religion practiced by them. The Court was unable to agree with the appellant. The appellant wants to know the religion disclosed by important public figures to the Census Authorities and any such information is covered under the Section 15 of the Census. The appellant's plea is that **Section 22 of the Right to Information Act, 2005 overrides the provisions of Section 15 of the Census Act** and hence disclosure of the information sought by the appellant cannot be withheld.

9. The court was of the view that, the [provisions of Section 15 of the Census Act, 1948](#) are not inconsistent with **provisions of Section 8(1)(j) of the Right to Information Act, 2005** and that both can be read harmoniously. According to the court the [Section 22 of the Right to Information Act, 2005](#) will not come into operation and cannot sustain the pleas of the appellant. It further stated that it is apparent that the appellant wants to obtain information about the religion practice of such public persons and India being a socialist, democratic and secular democratic republic, any attempt to obtain such information about the religion practices of an individual cannot under any circumstance, be considered to be in public interest. Furthermore, such information is strictly confidential as per [Section 15 of the Census Act, 1948](#). Merely stating that such information is sought against public figures and the leaders of nation cannot change the statutory impact of the above provisions. It is thus evident that the petitioner is making efforts to make unjustified attempts to encroach the privacy of said individuals even if they are public figures. Consequently, the information given to the Census Officer cannot be made public in view of the [Section 15 of the Census Act](#), which is not inconsistent with **Section 22 and section 8(1)(j) of the Right to Information Act, 2005**. Accordingly, The court was of the opinion that there was no merit in this appeal which stands dismissed.