

केन्द्रीय सूचना आयोग  
Central Information Commission  
बाबा गंगनाथ मार्ग, मुनिरका  
Baba Gangnath Marg, Munirka  
नई दिल्ली, New Delhi – 110067

द्वितीय अपील संख्या / Second Appeal No.CIC/RBIND/A/2018/631240

Girish Mittal

... अपीलकर्ता/Appellant

VERSUS

बनाम

CPIO: Reserve Bank of India,  
Central Office, Mumbai,

...प्रतिवादीगण/Respondents

Relevant dates emerging from the appeal:

RTI : 13.07.2018	FA : 30.08.2018	SA :12.09.2018
CPIO : 10.08.2018& 27.09.2018	FAO : 10.09.2018	Hearing :19.11.2020

**CORAM:**

**Hon'ble Commissioner**

**SHRI SURESH CHANDRA**

**ORDER**

**(07.01.2021)**

1. The issues under consideration arising out of the **second appeal dated 12.09.2018** include non-receipt of the following information raised by the appellant through his RTI application dated 13.07.2018 and first appeal dated 30.08.2018:-

- (a) *Whether the RBI has made AADHAR seeding mandatory for opening and operating bank account. If yes, provide file with file noting where this decision was taken.*
- (b) *Whether RBI was aware of decision on Hon'ble Supreme Court order dated 13th March, indefinitely extending the requirement of linking AADHAR till the Hon'ble Supreme Court pronounces the final judgment on validity of AADHAR.*

(c) *Provide information on file with file noting where RBI has decided to be in contempt of order of Hon'ble Supreme Court mentioned in point (b) above by issuing direction for linking of AADHAR.*

2. Succinctly facts of the case are that the appellant filed an application dated 13.07.2018 under the Right to Information Act, 2005 (RTI Act) before the Central Public Information Officer (CPIO), Reserve Bank of India, Central Office, Mumbai, seeking aforesaid information. The CPIO replied on 10.08.2018. Dissatisfied with the response of the CPIO, the appellant filed first appeal dated 30.08.2018. The First Appellate Authority disposed of the first appeal vide order dated 10.09.2018. In compliance with the FAA's order, the CPIO furnished revised reply on 27.09.2018. Aggrieved by this, the appellant has filed a second appeal dated 12.09.2018 before this Commission which is under consideration.

3. The appellant filed the instant appeal dated 12.09.2018 *inter alia* on the grounds that the reply given by the CPIO was not satisfactory. The appellant has requested the Commission to direct the CPIO to provide the information immediately and take necessary action as per sub-section (1) of section 20 of the RTI Act.

4. The CPIO vide letter dated 10.08.2018 gave point-wise reply to the RTI application wherein they stated that information sought on point no. (c) of the RTI application was in the form of seeking opinion which did not fall within the definition of "information" as defined under section 2 (f) of the RTI Act. They provided copy of one page file noting as sought on point no. (a) of the RTI application after severing names of the persons who made such notings under section 8 (1)(j) of the RTI Act. The FAA vide his order dated 10.09.2018 directed the CPIO to revisit the query no. (a) of the RTI application and provide supplementary reply subject to the provisions of the RTI Act within 10 days. In compliance of the order of the FAA, the CPIO vide letter dated 27.09.2018 replied that information severed in the RTI reply to query no. (a) was exempted under section 8 (1) (g) of the RTI Act.

#### **Hearing on 05.08.2020:**

4.1. The appellant and on behalf of the respondent, Shri Nayeem Akhtar, Law Officer, Reserve Bank of India, Bandra, attended the hearing through audio conference.

4.2. The Commission passed the following directions on 16.10.2020:

*"6. The Commission after adverting to the facts and circumstances of the case, hearing both the parties and perusal of records, feels that due to paucity of time the*

*parties could not conclude their submissions. Hence, the matter was **adjourned part-heard**. Now the matter fixed for hearing on 19.11.2020 and the Registry of this Bench is directed to issue fresh notice to the parties.”*

**Hearing on 19.11.2020:**

**5.** The appellant and on behalf of the respondent, Shri Ram Subramaniam, CPIO, Reserve Bank of India, Bandra, attended the hearing through audio conference.

**5.1.** The appellant *inter alia* submitted that he had received the reply given by the CPIO however, the reply given on point no. (a) of the RTI application was incomplete. He stated that on point no. (a) he sought information as to whether RBI has made AADHAR seeding mandatory for opening and operating bank account, if yes, provide file with file noting where this decision was taken. In this regard the respondent had provided copy of the file noting as sought, however, they severed the names of the official(s) who made such proposal under section 8 (1) (i) of the RTI Act. He contended that exemption claimed by the respondent was arbitrary and against the transparency law. He referred clause (c) of sub-section (2) of section 10 of the RTI Act which provides that when the access was granted to part of the record under sub-section (1) of section 10 of the RTI Act, the CPIO should have furnished the appellant the name and decision of the person giving the decisions. Hence, he requested the Commission to direct the respondent to provide name of the person who had made such proposal

**5.2.** The respondent while defending their case *inter alia* submitted that they had already furnished point-wise reply to the RTI application vide letter dated 10.08.2018. They stated that the appellant's main issue was with regard to point no. (a) of the RTI application. The information sought on point no. (a) of the RTI application i.e. whether RBI has made AADHAR seeding mandatory for opening and operating bank account, if yes, provide file with file noting where that decision was taken. The reply given by the CPIO vide letter dated 10.08.2018 against point no. (a) reads as follows “*Aadhar has been made mandatory for account based relationships by the Government of India vide their Gazette Notification GSR 538 (E) dated June 1, 2017. Accordingly, in terms of sub rule (14) of Rule 9 of the Prevention of Money Laundering Rules, 2005 (PML Rules), RBI on April 20, 2018 has amended the Master Direction on KYC dated February 25, 2016. The Revised Master Directions is in accordance with the changes carried out in the PML Rules vide the aforementioned Gazette Notification and the subsequent Gazette Notifications including Gazette Notification 314 (E), dated March*

31, 2018. Further, this is subject to the judgment of the Hon'ble Supreme Court in the case of Justice K.S. Puttaswamy (Retd.) and Anr. Vs. Union of India, W.P. (Civil) 494/2012 etc. (Aadhar cases). The CPIO also informed the appellant that the aforementioned Master Direction is available on the website of RBI- [www.rbi.org.in](http://www.rbi.org.in) under the link 'Notification'. A copy of the file noting was furnished to the appellant after severing details under 8(1)(j) of the RTI Act, 2005."

**5.3** They stated that the appellant's main issue was denial of names of officials who made the said proposal severing clause. They contended disclosure of name of the officials/manager who made such proposal to amend KYC rules would endanger his life and physical safety, hence, it could not be given under section 8 (1) (g) of the RTI Act and the same was conveyed to the appellant vide letter 27.09.2018. They further submitted that the Notes on any subject/issue in RBI move in a hierarchical manner and the designations of all the personnel involved in that particular Note had already been provided to the appellant. The CPIO had duly provided the Note which was put up on the letter head of the Reserve Bank without severing any content of the material except the names of the officials

**6.** The Commission after adverting to the facts and circumstances of the case, hearing both the parties and perusal of records, observes that the respondent had furnished point-wise reply/information to the appellant vide letter dated 10.08.2018. The appellant was not satisfied with regard to point no. (a) of the RTI application only. The appellant's main contention was with regard to disclosure of the names of officials/Managers who initiated the note to amend KYC rules. Though, initially this information was denied by the respondent under section 8 (1) (j) of the RTI Act, subsequently in compliance of the order of the FAA, they provided copy of note sheet and blackened out the names of the officials on the ground of danger to the life, physical safety and personal threat being exempted under section 8 (1) (g) of the RTI Act. Before we conclude in that matter, we may discuss the judicial pronouncements on the subject.

**6.1.** In *UPSC Vs Lalit Kumar*, Delhi High Court in decision dated April 05, 2011, the Bench made the following observations regarding non-disclosure of file notings:-

*"The grievance of the Petitioner Union Public Service Commission (UPSC) is that by the impugned order dated 12th January 2011, the Central Information Commission (CIC) had directed the UPSC to provide the Respondent photocopies of the relevant file*

*notings concerning two disciplinary cases involving the Respondent after deleting the names and all other references to the individual officers/authorities concerned so that their identity remains concealed.*

*The information sought by the Respondent concerns the file notings in two disciplinary cases involving him. In the considered view of this Court, the CIC has rightly permitted disclosure by applying Section 10 of the Right to Information Act, 2005 by directing deletion of the names and all other references to the individual officers/authorities concerned. No prejudice can be said to be caused to the Petitioner by the said direction.”*

**6.2.** In *Mr. G. S. Sandhu vs Union Public Service Commission* [CIC/SN/A/2011/001771] on 1 May, 2013, Full Bench of Central Information Commission while allowing file notings relating to the matter gave liberty to UPSC to obliterate the names and designations of the officers of UPSC who made notings in the file under section 10 (1) of the RTI Act. The High Court of Delhi on challenge while upholding the order of CIC in its decision dated 7/10/2013 [W.P. (C) 4079/2013] *Union Public Service Commission vs. G. S. Sandhu* observed as under:

*“11. In my view, the apprehension of the petitioner that if the identity of the author of the file notings is revealed by his name, designation or in any other manner, there is a possibility of such an employee being targeted, harassed and even intimidated by the persons against whom an adverse noting is recorded by him on the file of UPSC, is fully justified. Though, ultimately it is for the members of the UPSC who are to accept or reject such notings, this can hardly be disputed that the notings do play a vital role in the advice which UPSC ultimately renders to the concerned department. Therefore, the person against whom an adverse advice is given may hold the employee of UPSC recording a note adverse to him on the file, responsible for an adverse advice given by UPSC against him and may, therefore, harass and sometime even harm such an employee/officer of UPSC, directly or indirectly. To this extent, the officers of UPSC need to be protected. However, the purpose can be fully achieved by blocking the name, designation or any other indication which would disclose or tend to disclose the identity of the author of the noting. Denying the notings altogether would not be justified when the intended objective can be fully achieved by adopting such safeguards.”*



**6.3.** In *Rajesh Batlish vs. CPIO, Ministry of Defence (Navy)* [CIC/INAVY/A/2017/103441] Central Information Commission vide decision dated 31.08.2017 observed as under:

*“CPIO is directed to invoke Section 10 of the RTI Act to adequately severe the details of other officers who have been discussed upon in the file noting(s) as also any location or deployment details. This is to mean that the portions where Appellant’s transfer has been deliberated upon will be provided by the CPIO. CPIO is at liberty to either black out or extract the relevant information regarding the circumstances of Appellant’s transfer while applying Section 10. The extracted or blacked out information will be provided to the Appellant within 15 days from the date of receipt of this order.”*

**6.4.** There have been plethora of cases in which the Hon’ble Supreme Court and High Courts have laid down that the wisdom of public authority to claim exemptions provided under the RTI Act may not be substituted unless found unreasonable or against the public interest. It is relevant to quote the decision given by the Central Information Commission in *Neeraj Sharma vs. Reserve Bank of India* [CIC/RBIND/A/2017/167309] vide decision dated 15.05.2019:

*“The authorities have claimed exemption by virtue of the provisions under section 8(1) (a) and (d) of the RTI Act. The presumption that the legislature understands the needs of its people and that even its discrimination and classifications are based on adequate grounds has been acknowledged by the Supreme Court itself (in special reference No 1 of 2012, [(2012), 10 SCC 1]. The logic of balance exercise of judicial power has an assurance of institutional stability and re-organization of boundary of power is implicit in the Constitutional arrangement. It is contended that the failings of democracy and inadequacies of the democratic process cannot be invoked to negate the core of the democratic principle, namely that ultimate sovereignty vests in the people. Thus, arrangements of governance embodied in the Constitution resulting from the exercise of their free will cannot be used to deprive the ultimate masters of the right of final decision over their destiny. It is argued that “juridification of politics and politization of the judiciary” would be a loss for both the legislature and judiciary and that judiciary*

*cannot act as a “censor of all governmental action”. There have been plethora of judicial orders highlighting the issue of restraint by judicial bodies in substituting their wisdom over those who have been assigned the function of implementation of Laws. The Commission after adverting to the facts and circumstances of the case, hearing both the parties and perusal of records, feels that due reply has been given by the respondent. Accordingly, the appeal is dismissed.”*

**6.5.** The appellant during the course of hearing submitted that name and designation of officials/manager who initiated the note to amend KYC rules should be disclosed as per clause (c) of sub-section (2) of section 10 of the RTI Act. The clause (c) of sub-section (2) of section 10 of the RTI Act is reproduced as under:-

“10. Severability.-

*(1) Where a request for access to information is rejected on the ground that it is in relation to information which is exempt from disclosure, then, notwithstanding anything contained in this Act, access may be provided to that part of the record which does not contain any information which is exempt from disclosure under this Act and which can reasonably be severed from any part that contains exempt information.*

*(2) Where access is granted to a part of the record under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be shall give a notice to the applicant, informing,-*

*(a) that only part of the record requested, after severance of the record containing information which is exempt from disclosure, is being provided;*

*(b) the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based;*

*(c) the name and designation of the person giving the decision;*

*....*

*....”*

**6.6** Name and designations of the officials as referred in Clause (c) of sub-section (2) of the RTI Act may refer to the following three persons:

(i) who had put up the notes on the RBI file in pursuance to the notification dated 01.06.2017 issued under the Prevention of Money Laundering Rules, 2005 ;

(ii) The CPIO who redacted and severed the information, and ;

(iii) the authority who had made the rules/or the authority who had made Aadhar mandatory for account based relationship and thereafter approved the notification dated 01.06.2017.

**6.7** If the appellant was referring to the person/authority as envisaged under the proposition (iii) above i.e. who approved the aforementioned Rules, 2005 then, the same might not be in the RBI, as the Rules were issued by the Government of India. Besides, CPIO in RBI might not be the concerned CPIO as he was not the custodian of that information which resulted in issuance of the notification dated 01.06.2017. However, the CPIO had made it known to the appellant as the notification dated 01.06.2017 was quoted by him.

**6.8** As regards the person who had written/initiated the note as envisaged in proposition no. (i) mentioned in para 6.6 above, is concerned, he was carrying out the orders of the Government of India or following the rules, and was not the approving authority. Even if he/they was/were approving the same, their names could be redacted/obliterated by the CPIO as per the provisions contained under sub-section (1) of Section 10 of the RTI Act.

**6.9.** As regards proposition no. (ii) contained in para 6.6 above is concerned, it may be reaffirmed that whenever the CPIO has been taking decision to allow disclosure of information or withholding the part, he is supposed to mention his/her name and designation and in this case, if not disclosed, the same may be disclosed immediately.

**6.10.** Perusal of the language of the provisions contained under Section 10 of the RTI Act reveals that the power of severing the information disclosable from the exempted one vest in the CPIO, if this power is read as not vesting in him, it may render the very provision *otiose*. In this case, the name and designation of the official referred to in clause (c) of sub-section (2) of section 10 of RTI Act, may be construed, unless rebutted, as the CPIO that communicates



decision to the appellant under the provisions of the RTI Act. The provision has to be read in holistic manner and any interpretation which leads to absurdity will have to be discarded. Moreover, it is not the case that the exemption which had been claimed by the CPIO was not available to him.

**6.11.** The term '*the decision*' has figured in clause (b) and clause (c) of sub-section (2) of section 10 of the RTI Act and a careful reading would reveal that the same may be referring to 'the decision' of the CPIO. Perusal further reveals the 'name and designation of the person giving the decision' mentioned in Clause (c) of sub-section(2) of section 10 of the RTI Act would mean the CPIO as it was CPIO who, under the ordinary circumstances would have taken the decision to disclose the disclosable information after redacting the exempted information. Even, if it is presumed that the appellant was referring to the persons who initiated or approved that particular note, the same could be severed and thus denied and in the absence of larger public interest, the Commission does not feel it expedient or reasonable to substitute the wisdom of the CPIO. Moreover, the appellant having received the note, having received the rules under which Aadhar was made mandatory, was not without remedy and it could not be said that there was no transparency. If name and designation of the CPIO who had taken the decision of severing as envisaged under Section 10, were not communicated, the same may be communicated to the appellant within 3 weeks from the date of receipt of this order.

The Commission disposes of the second appeal with the aforementioned observations and directions.

Copy of the decision be provided free of cost to the parties.

**Sd/-**  
**(Suresh Chandra) (सुरेश चंद्रा)**  
**Information Commissioner (सूचना आयुक्त)**  
दिनांक/Date:07.01.2021

Authenticated true copy

R. Sitarama Murthy (आर. सीताराम मूर्ती)  
Dy. Registrar (उप पंजीयक)  
011-26181927(०११-२६१८१९२७)

Addresses of the parties:

**CPIO :**

RESERVE BANK OF INDIA  
DEPTT. OF BANKING REGULATION,  
CENTRAL OFFICE,  
CENTRAL OFFICE BUILDING,  
13TH FLOOR, SHAHID BHAGAT  
SINGH MARG, FORT, MUMBAI - 400 001

**THE F.A.A.**

RESERVE BANK OF INDIA  
DEPTT. OF BANKING REGULATION,  
CENTRAL OFFICE,  
CENTRAL OFFICE BUILDING,  
13TH FLOOR, SHAHID BHAGAT  
SINGH MARG, FORT,  
MUMBAI - 400 001

**GIRISH MITTAL**

