

(2011) 11 AP CK 0038

Andhra Pradesh High Court

Case No: Writ Petition No. 28785 of 2011

Public Information Officer,
Under RTI Act, Syndicate Bank,
Regional Office,
Mugulrajapuram, Vijayawada

APPELLANT

Vs

Central Information Commission
and another

RESPONDENT

Date of Decision: Nov. 2, 2011

Acts Referred:

- Right to Information Act, 2005 - Section 19(5), 7, 7(1), 8, 8(1)
- Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) - Section 13(2)

Citation: (2012) 2 ALT 348

Hon'ble Judges: C.V. Nagarjuna Reddy, J

Bench: Single Bench

Advocate: A. Krishnam Raju, for the Appellant; S. Nanda Counsel, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

C.V. Nagarjuna Reddy

1. This Writ Petition is filed for a certiorari to quash decision No. CIC/SM/A/2010/001566/SG/14914, dated 28-09-2011, of respondent No. 1, in Appeal No. CIC/SM/A/2010/001566/SG.

2. The petitioner is the Public Information Officer, Syndicate Bank Regional Office at Mugulrajapuram, Vijayawada, under the Right to Information Act, 2005 (for short "the Act").

3. Respondent No. 2 made application, dated 24-07-2010, before the petitioner, under the Act, seeking the following information:

1. When were the accounts of the unit M/s.Coastal Andhra Agri Feed Technologies declared NPA and the exact amount of book debts as on the date of NPA of all its accounts.

2. What is the status of the account as on 1st October, 2009, whether it is classified substandard, doubtful or loss asset.

3. Whether the Vakalpudi Branch submitted Annexure-I, for ONE TIME SETTLEMENT SCHEME FOR MSE ACCOUNTS to the Competent Authority in compliance of Circular No. 213-2009-BC-REC-09/24-09-2009 issued by General Manager, Syndicate Bank, Head Office, Manipal.

4. If not covered as to the reason why the bank OTS was not offered to the said unit and the particulars and details as to why the OTS was declined and the details of orders passed in this regard, may be informed.

5. How many notices were issued u/s 13(2) of SARFAESI Act to the borrower and on what dates and the exact amounts demanded to be repaid by the borrowers.

4. The said application was rejected by the petitioner vide Order , dated 04-08-2010, on the ground that the Bank has initiated proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as "the SARFAESI Act") for recovery of dues from respondent No. 2 and that therefore, the information sought for by him falls within the exempted category u/s 8(1)(h) of the Act. Against the said order of the petitioner, respondent No. 2 filed a first appeal before the General Manager of the Bank, who is senior in rank to the petitioner. While substantially confirming the order of the petitioner, the General Manager, however, directed the petitioner to furnish more information regarding the OTS proposal. Accordingly, he has partly allowed the appeal. Feeling aggrieved by the said order, respondent No. 2 has filed a Second Appeal before respondent No. 1, who, by the impugned order, allowed the same by holding that the onus, to prove that denial of information is justified, is on the Public Information Officer u/s 19(5) of the Act and that since he failed to offer any such justification, the appeal deserves to be allowed. Feeling aggrieved by the said order, the Public Information Officer has filed the present Writ Petition.

5. Heard Sri A.Krishnam Raju, learned Counsel for the petitioner, and perused the record.

6. In the first place, this Court is of the opinion that the Writ Petition, filed by the Public Information Officer, is not maintainable because even though he is an employee, he is designated as Public Information Officer, who is charged with the duty of dealing with the requests of persons seeking information and render reasonable assistance to such persons. u/s 7 of the Act, the Public Information

Officer shall dispose of the requests received by him either by providing information on payment of the prescribed fee or by rejecting the request for any of the reasons specified in Sections 8 and 9 of the Act. A person, who does not receive a decision within the time specified under sub-section 1 of Section 7 of the Act or is aggrieved by the decision of the Central Public Information Officer or the State Public Information Officer, is entitled to file an appeal to such Officer, who is senior in rank to the Central Public Information Officer or the State Public Information Officer. A second appeal against such decision shall lie to the Central Information Commission or the State Information Commission as the case may be.

7. The scheme of the Act, discussed above would reveal that every Public Information Officer nominated as such under the Act has a dual role to play viz., as an officer of the Public Authority and also the Public Information Officer. While such Officer is loyal to his employer while acting in his role as the Officer, he acts as a quasi-judicial authority while disposing of the request made for furnishing information. His orders are subject to further appeals. Therefore, in the opinion of this Court, the Public Information Officer cannot dawn the role of the Officer of the Public Authority in relation to the orders passed by the appellate authorities against the orders passed by him. If his order is reversed by the appellate authority, he cannot be treated as aggrieved party giving rise to a cause of action for him to question such Orders. It is only either the public authority, against whom the directions are given, or any other party, who feels aggrieved by such directions, that can question the orders passed by the appellate authorities. As such, the Public Information Officer, who filed this Writ Petition, is wholly incompetent to question the order of the appellate authority and the Writ Petition filed by him is not maintainable.

8. Even on merits, this Court has no hesitation to hold that the information sought for by respondent No. 2 does not fall within the exempted category u/s 8(1)(h) of the Act because the information, which respondent No. 2 has sought, relates to pending proceedings before the Debt Recovery Tribunal. However, what is exempted u/s 8(1)(h) is information, which would impede the process of investigation or apprehension or prosecution of offenders. It is not the pleaded case of the Bank that any investigation or apprehension or prosecution of respondent No. 2 will be impeded by furnishing information sought for by him. Even if the information relates to a pending dispute before a Court or Tribunal, that would not fall u/s 8(1)(h) of the Act.

9. For the above-mentioned reasons, the Writ Petition is dismissed.

10. As a sequel, WPMP. No. 35591 of 2011, filed by the petitioner for interim relief, is disposed of as infructuous.