



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 34625 OF 2019 (GM-RES)

BETWEEN

INCOME TAX OFFICER AND CPIO
INCOME TAX DEPARTMENT
CENTRALISED PROCESSING CENTRE
PRESTIGE ALPHA POSTBOX NO.1
ELECTRONIC CITY POST
BANGALORE-560500

... PETITIONER

(BY SRI. M. DILIP AND
SRI. Y.V. RAVIRAJ., ADVOCATES)

AND

1. SMT GULSANOVER
BANO ZAFAR ALI ANSARI
C/O HAYAT PALACE, 101, 1ST FLOOR
DR NAIR ROAD, OPP NAIR HOSPITAL
MUMBAI -400008

2. CENTRAL INFORMATION COMMISSION
2ND FLOOR, C-WING
AUGUST KRANTI BHAWAN
BHIKAJI CAMA PLACE
NEW DELHI-110066

.... RESPONDENTS

(BY SRI. KEMPARAJU., ADVOCATE FOR R1;
SRI. SHANTHI BHUSHAN., DSGI FOR R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227
OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF
CERTIORARI TO QUASH THE ORDER DATED 12.4.2019 BEARING FILE





NO. CIC/CCITB/A/2017/180340-BJ PASSED BY THE SECOND RESPONDENT PRODUCED AS ANNEXURE-D AND ETC.

THIS WRIT PETITION COMING ON FOR ORDERS AND HAVING BEEN RESERVED FOR ORDERS ON 10.12.2025, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CAV ORDER

1. The Petitioner/Income Tax Officer is before this Court seeking for the following reliefs:

"a) Issue a writ of certiorari to quash the order dated 12.4.2019 bearing File No. CIC/CCITB/A/2017/180340-BJ passed by the second respondent produced as Annexure-D and etc.

b) Issue such other writ or directions deems fit to grant the facts and circumstances of the present case in the interest of justice and equity."

2. The Petitioner, who is serving as the Chief Public Information Officer (CPIO) at the Central Processing Centre of the Income Tax Department, Bengaluru, was seized of an application dated 07.08.2017 submitted by Respondent No.1 under the provisions of the Right to Information Act, 2005 (for short, "the RTI Act"). Respondent No.1, who is the wife of Sri Zafar Ali Asar Ali Ansari, sought disclosure of certain information relating to her husband. The information requested pertained to the Assessment Years 2012-



2017 and included copies of his Income Tax Returns, details of tax paid, and the name and address of the bank(s) connected with his financial records.

3. Upon consideration of the request, the Petitioner, by order dated 31.08.2017, rejected the application invoking Section 8(1)(e) of the RTI Act. The rejection was premised on the ground that the information sought constituted third-party information held by the Income Tax Department in a fiduciary capacity and was therefore exempt from disclosure. It is stated that notice under Section 11 of the RTI Act was issued to the concerned third party, namely Sri Zafar Ali Asar Ali Ansari. However, no response was received from him within the prescribed period.
4. Aggrieved by the rejection, Respondent No.1 preferred a statutory appeal dated 07.09.2017 before the Joint Commissioner of Income Tax (CPC), who was functioning as the First Appellate Authority under the RTI Act. The Appellate Authority, by order dated 23.09.2017, dismissed the appeal. It was held that the information sought fell within the exemptions contemplated under Section 8(1) of the RTI Act and that the Income Tax Department holds such information in a fiduciary relationship. The



Appellate Authority further observed that disclosure of such information to a third party would be permissible only if a larger public interest so warranted, and concluded that no such larger public interest had been established by Respondent No.1.

5. Thereafter, Respondent No.1 carried the matter in a second appeal before the Central Information Commission. The Commission, by order dated 12.04.2019, allowed the appeal and directed the Petitioner to furnish the information sought, placing reliance upon an earlier order passed in W.P. No. 18778/2017 (Smt. Jammalu Padma Manjari v. CPIO & DCIT). It is this order dated 12.04.2019, passed by the Central Information Commission, that is called in question in the present writ petition.
6. Sri Y.V.Ravi Raj, learned counsel appearing for the Petitioner, would submit that:
 - 6.1. Insofar as the justification for rejection is concerned, the Petitioner contends that the information sought by Respondent No.1 constitutes purely private and personal information relating to her husband. It is submitted that such information was furnished by the assessee to the Income Tax Department



exclusively for the purpose of assessment and compliance under the provisions of the Income-tax law. According to the Petitioner, the Department receives and retains such material in a fiduciary capacity, reposing trust in the confidentiality of disclosures made by the assessee.

- 6.2. It is therefore asserted that the information so obtained cannot be divulged, either wholly or in part, to Respondent No.1, who is a third party within the meaning of the Right to Information Act, 2005. Any disclosure, it is contended, would amount to a breach of the fiduciary relationship between the Department and the assessee and would be contrary to the statutory exemptions contemplated under Section 8(1) of the RTI Act. On this premise, it is submitted that the rejection of the request was legally justified and in consonance with the protective framework governing confidential tax information.
- 6.3. He relies upon the decision of the Hon'ble Bombay High Court, Aurangabad Bench in



Adarsh vs. The State of Maharashtra¹, more particularly, paras 10, 11, 12 and 14 thereof, which are reproduced hereunder for easy reference:

"10. This Court has dealt with the issue of applicability of Section 8 and 11 of the RTI Act by analysing the judgment of the Hon'ble Supreme Court in Central Public Information Officer, Supreme Court of India V/s. Subhash Chandra Agarwal (supra) and the Court has explained that the RTI Act operationalise the disclosure of information held by public authorities to reduce the asymmetry of information between individual citizens and the State apparatus. However, the Constitution Bench has observed that enacting the RTI Act the Parliament was cognizant that an unrestricted disclosure of information could be fiscally inefficient, result and would do real-world harms and infringe the rights of others. Thus, the Constitution Bench while quoting the provisions of Section 8 of the RTI Act explained the non-obstante phrase carved exceptions under Section 8 to the general obligation to disclose information under the RTI Act. Therefore, where the conditions set out in any of the sub-clauses of Clause (1) of Section 8 are satisfied, Information Officers are under no obligation to provide information of any applicant. Clause (d) of Section 8 (1) provides that information is exempt from disclosure where such disclosure would harm the competitive position of a third party and the exemption is further qualified by the phrase, unless the competent authority is satisfied that

¹ WP.No.11135/2025 dated 11135/2025



larger public interest warrants the disclosure. Thus, the exemption under clause (d) of Section 8(1) is not absolute but is qualified and cannot be invoked where a larger public interest exists. In the context of clause J of Section 8 (1) explanation provides a qualified exemption from disclosure where the information relates to personal information the disclosure of which has no relationship to public activity or interest and the information would cause an unwarranted invasion of the privacy. However, the exemption may be overridden where the Information Officer is satisfied that the larger public interest justifies the disclosure. Thus, clause (j) of Section 8 is not an absolute exemption from the disclosure of information on the ground of privacy and the disclosure is exempted where personal information is sought and there is no larger public interest. Thus under Section 8 (1) (j) an information which has relevance to privacy and relates to personal information can be denied. If such an information relates to a third party then Section 2 (n) of the RTI Act defines third party to mean a person other than a citizen requesting information and includes a public authority. Section 11 is concerned with third party information. Third party information is an information which relates or has been supplied by any other person other than the information applicant and has been treated as confidential by third party. Wherever the disclosure of third party is sought and such information has been prima facie treated as confidential by the third party in question, the procedure under Section 11 of the RTI Act is mandatory. The provision expressly mandates the Information Officer to consider the objections of third party while deciding whether to disclose or not disclose the



information. In the instant case the information which is sought relates to the third party and the GST Authorities holds the Information i.e. GST returns of the third party. When such an information is asked the Authorities constituted has to issue under Section 11 to the effected person as this provision is held to be mandatory. As such, the first objection of the Petitioner that no notice ought to have been given to the Industries whose GST returns were asked by applicant is rejected.

11. *The next issue is whether Section 158 of the GST Act would also be an impediment in providing information under the RTI Act. Section 158 (1) of the GST Act provides that the Information of the GST cannot be provided to third parties. For ready reference, Section 158 of GST Act is as below:*

"Section 158. Disclosure of Information by a public servant.-

(1) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act (other than proceedings before a criminal court), or in any record of any proceedings under this Act shall, save as provided in sub-section (3), not be disclosed.

(2) Notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872), no court shall, save as otherwise provided in sub-section (3), require any officer appointed or authorised under this Act to produce before it or to give evidence before it in respect of particulars referred to in sub-section (1).



(3) Nothing contained in this section shall apply to the disclosure of,-

(a) any particulars in respect of any statement, return, accounts, documents, evidence, affidavit or deposition, for the purpose of any prosecution under the Indian Penal Code or the Prevention of Corruption Act, 1988 (49 of 1988), or any other law for the time being in force; or

(b) any particulars to the Central Government or the State Government or to any person acting in the implementation of this Act, for the purposes of carrying out the objects of this Act; or

(c) any particulars when such disclosure is occasioned by the lawful exercise under this Act of any process for the service of any notice or recovery of any demand; or

(d) any particulars to a civil court in any suit or proceedings, to which the Government or any authority under this Act is a party, which relates to any matter arising out of any proceedings under this Act or under any other law for the time being in force authorising any such authority to exercise any powers thereunder; or

(e) any particulars to any officer appointed for the purpose of audit of tax receipts or refunds of the tax imposed by this Act; or

(f) any particulars where such particulars are relevant for the purposes of any inquiry into the conduct of any officer appointed or authorised under this Act, to any person or persons appointed as an inquiry officer under any law for the time being in force; or



(g) any such particulars to an officer of the Central Government or of any State Government, as may be necessary for the purpose of enabling that Government to levy or realise any tax or duty; or

(h) any particulars when such disclosure is occasioned by the lawful exercise by a public servant or any other statutory authority, of his or its powers under any law for the time being in force; or

(i) any particulars relevant to any inquiry into a charge of misconduct in connection with any proceedings under this Act against a practising advocate, a tax practitioner, a practising cost accountant, a practising chartered accountant, a practising company secretary to the authority empowered to take disciplinary action against the members practising the profession of a legal practitioner, a cost accountant, a chartered accountant or a company secretary, as the case may be; or

(j) any particulars to any agency appointed for the purposes of data entry on any automated system or for the purpose of operating, upgrading or maintaining any automated system where such agency is contractually bound not to use or disclose such particulars except for the aforesaid purposes; or

(k) any particulars to an officer of the Government as may be necessary for the purposes of any other law for the time being in force; or

(l) any information relating to any class of taxable persons or class of transactions for publication, if, in the opinion of the



Commissioner, it is desirable in the public interest, to publish such information."

12. *Section 158 (1) of the GST Act specifically prohibits giving Information of GST returns except as provided in sub-section 3, so also Section 8 (1) (j) of the RTI Act prohibits information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information.*

14. *In the instant case, the Petitioner has applied for the information contending that that there is a large scale fraud and that he needs the information in order to prosecute the industries. The allegation is bald in nature. There is no prima facie evidence to show that the industries have indulged in large scale fraud. Although the response given by the industries is that the industries are closed on account of the harassment by the Petitioner. Based on the reply the Authorities have not provided Information of GST returns of the Industries as there is no larger public interest involved in the matter. Thus no case is made out under proviso to Section 8 (1) (j) to grant information.*

6.4. By relying on **Adarsh** he submits that the Hon'ble Bombay High Court examined the scope and interplay of Sections 8 and 11 of the



Right to Information Act, 2005, in the light of the principles enunciated by the Constitution Bench of the Hon'ble Supreme Court in ***Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal***. It is contended that while the RTI Act was enacted to operationalise transparency and reduce informational asymmetry between citizens and the State, Parliament was simultaneously conscious that unrestricted disclosure could result in fiscal inefficiency, real-world harm, and infringement of the rights of third parties. The non obstante clause contained in Section 8(1) carves out specific exemptions from the general obligation of disclosure. Where the conditions stipulated under any of the sub-clauses of Section 8(1) are satisfied, the Information Officer is under no statutory obligation to furnish such information.

- 6.5. It is further submitted that clauses (d) and (j) of Section 8(1) provide qualified exemptions. In particular, clause (j) protects personal information, the disclosure of which bears no relationship to any public activity or public interest and which would amount to an



unwarranted invasion of privacy. The exemption, though not absolute, can be overridden only upon a demonstrable showing of larger public interest. In cases involving third-party information treated as confidential, the procedure under Section 11 of the RTI Act is mandatory, and the objections of the third party must be duly considered before any disclosure is ordered.

6.6. The Petitioner further submits that the reasoning adopted in **Adarsh** is apposite to the present case. Just as GST returns were held to be protected from disclosure in the absence of a larger public interest, income tax returns and related financial particulars of an assessee are similarly confidential in nature. Such information is statutorily protected, and its disclosure, absent compelling public interest, would amount to an unwarranted invasion of privacy. The mere assertion of grievance or personal necessity does not elevate the matter to one of larger public interest.

6.7. On the strength of **Adarsh**, it is urged that the object of the RTI Act is not to enable



indiscriminate access to personal financial information, but to promote transparency in public functioning. Disclosure of private tax information between estranged spouses, it is contended, falls outside the purview of the Act's transparency mandate and would defeat the statutory safeguards embedded in Section 8.

- 6.8. Learned counsel for the Petitioner contends that Clause (d) of sub-section (1) of Section 8 of the Right to Information Act, 2005 contemplates exemption from disclosure where such disclosure would harm the competitive position of a third party. Though the exemption under clause (d) is qualified by the expression "unless the competent authority is satisfied that larger public interest warrants the disclosure," it is submitted that such larger public interest must be real, demonstrable, and proximate.
- 6.9. According to the Petitioner, disclosure of income tax returns of one spouse to the other neither arises out of any public activity nor advances any public interest. The information sought is personal financial information, the disclosure of which does not subserve the



transparency objectives of the RTI Act. In the absence of a finding of overriding public interest, it is contended that the exemption operates with full force, and therefore, the Central Information Commission could not have directed disclosure of the income tax returns.

6.10. It is further submitted that the husband, being an assessee under the Income-tax regime, squarely answers the description of a "third party" within the meaning of Section 2(n) of the RTI Act, which defines "third party" to mean a person other than the citizen making the request for information. Since the applicant is Respondent No.1 and the information sought pertains to her husband, the husband must necessarily be treated as a third party for the purposes of the Act.

6.11. On that premise, it is argued that any information relating to such a third party is confidential in nature and protected from disclosure unless the statutory conditions are strictly satisfied. The mere fact that the applicant is the spouse of the assessee does not dilute the confidentiality attached to income tax



returns. It is emphasised that income tax returns not only contain personal financial particulars of the assessee but may also disclose transactional details involving other individuals and entities. Disclosure of such information, it is urged, would potentially infringe the privacy rights of multiple persons and defeat the statutory safeguards embedded in Section 8 of the RTI Act.

6.12. He relies upon the decision of the Hon'ble Apex Court in **Central Public Information Officer, Supreme Court of India Vs. Subhash Chandra Agarwal**², more particularly, paras 235, 251 and 293 thereof, which are reproduced hereunder for easy reference:

235. The appellant argued that the information about the assets of Judges is exempt from disclosure, by virtue of Section 8(1)(e) of the RTI Act which casts a fiduciary duty on the Chief Justice of India to hold the asset declarations in confidence. It is argued by the respondent that Judges, while declaring their assets, do so in their official capacity in accordance with the 1997 Resolution and not as private individuals. It is urged that the process of information gathering about the assets of the Judges by the Chief Justice of India, is in his official capacity and therefore, no fiduciary relationship exists between them.

² 2020 (5) SCC 481



251. *The third referral question to be answered by this Court is: "Whether the information sought for is exempt under Section 8(1)(j) of the RTI Act." The question requires this Court to determine whether and under what circumstances the information sought by the applicant should be disclosed under the provisions of the RTI Act. This Court is cognizant that in interpreting the statutory scheme of the RTI Act, the constitutional right to know and the constitutional right to privacy of citizens are also implicated. In answering the question, it is necessary to analyse the scheme of the RTI Act, the role of the exemptions under Section 8, the interface between the statutory rights and duties under Section 8(1)(j) and the constitutional rights under Part III of the Constitution.*

293. *The right to information and the need for transparency in the case of elected officials is grounded in the democratic need to facilitate better decision-making by the public. Transparency and the right to information directly contribute to the ability of citizens to monitor and make more informed decisions with respect to the conduct of elected officials. Where the misconduct of an elected representative is exposed to the public, citizens can choose not to vote for the person at the next poll. In this manner, the democratic process coupled with the right to information facilitates better administration and provides powerful incentives for good public decision-making. In the case of Judges, citizens do not possess a direct agency relationship. Therefore, the "public interest" in disclosing information in regard to a Judge cannot be sourced on the need for ensuring democratic accountability through better public decision-making but must be located elsewhere."*

6.13. By relying on **Subhash Chandra Agarwal's** case, his submission is that in that case, the Hon'ble Supreme Court considered the contention that information relating to the



assets of Judges was exempt from disclosure under Section 8(1)(e) of the RTI Act on the ground that such declarations were held in a fiduciary capacity. The issue revolved around whether the Chief Justice of India, while receiving asset declarations, held them in confidence pursuant to a fiduciary relationship. The Petitioner emphasises that the Supreme Court examined the scope of fiduciary obligations under Section 8(1)(e) and the nature of confidentiality attached to such disclosures.

6.14. It is contended that the Hon'ble Supreme Court emphasised the need to balance the statutory scheme of the RTI Act with the constitutional right to privacy under Part III of the Constitution. The Court recognised that exemptions under Section 8, particularly Section 8(1)(j), are not to be mechanically disregarded and that disclosure of personal information must be tested against privacy concerns and the requirement of a larger public interest.



6.15. The Hon'ble Supreme Court observed that the democratic justification for transparency in respect of elected representatives stems from the need for public accountability in a representative system. However, in the case of Judges, who do not stand in a direct agency relationship with the electorate, the "public interest" in disclosure cannot be equated with democratic accountability in the electoral sense.

6.16. On the strength of the aforesaid observations, learned counsel submits that the relationship between the Income Tax Department and an assessee is analogous, for the present purpose, to a fiduciary relationship. Just as asset declarations made by Judges were argued to be held in confidence, the income tax returns and financial particulars furnished by an assessee are submitted to the Department under statutory compulsion with an expectation of confidentiality. It is his submission that if not for the statutory compulsion, such information and finer details would not have been provided by the Assesse. It is therefore contended that such information is held in a fiduciary capacity



and attracts the exemption under Section 8(1)(e) of the RTI Act.

6.17. It is urged that disclosure of such personal financial information to a third party, even if that third party is the spouse of the assessee, would trench upon the privacy rights of the individual and would not advance any identifiable public interest. Hence, the direction issued by the Central Information Commission, according to the Petitioner, runs contrary to the principles laid down by the Hon'ble Supreme Court in ***Subhash Chandra Agarwal***.

6.18. Learned counsel for the Petitioner further contends that the information sought, namely the income tax returns, assessment particulars and financial disclosures of the assessee, squarely falls within the protective ambit of Section 8(1)(j) of the Right to Information Act, 2005. It is submitted that such material constitutes personal information, the disclosure of which has no relationship to any public activity or public interest and would amount to an unwarranted invasion of privacy.



6.19. According to the Petitioner, while the RTI Act recognises a statutory right to information, that right is not absolute and must necessarily be balanced against the constitutional right to privacy. Section 8(1)(j) embodies this legislative balance by carving out an exemption where personal information is sought without a demonstrable larger public interest. Thus, the “right to know” cannot override the right to privacy except in circumstances expressly contemplated by the statute.

6.20. It is further submitted that the only permissible ground for disclosure of such protected personal information would be the existence of a larger public interest warranting such disclosure. The concept of public interest, it is argued, must transcend individual disputes and relate to transparency in public functioning or accountability in governance. In the present case, the request emanates from a private matrimonial context and does not subserve any broader public cause.

6.21. On this basis, learned counsel reiterates that the Income Tax Department stands in a



fiduciary relationship with the assessee; the financial information furnished by the assessee is inherently private; and in the absence of any overriding public interest, the protection afforded by Section 8(1)(j) operates in full measure. Consequently, it is contended that no disclosure to Respondent No.1 is warranted under the RTI Act.

6.22. He relies upon the decision of the Hon'ble Apex Court in **Central Board of Secondary Education and another Vs. Aditya Bandopadhyay and others**³, more particularly, paras 12, 20 and 66 thereof, which are reproduced hereunder for easy reference:

12. To consider these questions, it is necessary to refer to the Statement of Objects and Reasons, the Preamble and the relevant provisions of the RTI Act. The RTI Act was enacted in order to ensure smoother, greater and more effective access to information and provide an effective framework for effectuating the right to information recognised under Article 19 of the Constitution. The Preamble to the Act declares the object sought to be achieved by the RTI Act thus:

"An Act to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of

³ (2011) 8 SCC 497



public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto.

Whereas the Constitution of India has established democratic republic;

And whereas democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed;

And whereas revelation of information in actual practice is likely to conflict with other public interests including efficient operations of the Governments, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information;

And whereas it is necessary to harmonise these conflicting interests while preserving the paramourncy of the democratic ideal;"

20. *It will also be useful to refer to a few decisions of this Court which considered the importance and scope of the right to information. In State of U.P. v. Raj Narain [(1975) 4 SCC 428] this Court observed: (SCC p. 453, para 74)*

"74. In a Government of responsibility like ours, where all the agents of the public must be responsible for their conduct, there can be but few secrets. The people of this country have a right to know every public act, everything that is done in a public way, by their public functionaries. They are entitled to know the



particulars of every public transaction in all its bearing. The right to know, which is derived from the concept of freedom of speech, though not absolute, is a factor which should make one wary, when secrecy is claimed for transactions which can, at any rate, have no repercussion on public security.”

(emphasis supplied)

66. *The right to information is a cherished right. Information and right to information are intended to be formidable tools in the hands of responsible citizens to fight corruption and to bring in transparency and accountability. The provisions of the RTI Act should be enforced strictly and all efforts should be made to bring to light the necessary information under clause (b) of Section 4(1) of the Act which relates to securing transparency and accountability in the working of public authorities and in discouraging corruption. But in regard to other information [that is, Information other than those enumerated in Sections 4(1)(b) and (c) of the Act], equal importance and emphasis are given to other public interests (like confidentiality of sensitive information, fidelity and fiduciary relationships, efficient operation of Governments, etc.).”*

6.23. Learned counsel for the Petitioner further places reliance upon the decision of the Hon’ble Supreme Court in **Aditya Bandopadhyay**, and submits that the Hon’ble Supreme Court, while analysing the Statement of Objects and



Reasons and the Preamble of the RTI Act, emphasised that the Act was enacted to promote transparency and accountability in the working of public authorities and to secure access to information in order to strengthen democratic governance. However, the Court also recognised that disclosure of information may conflict with other public interests, including preservation of confidentiality of sensitive information, efficient functioning of the Government, and fiduciary relationships.

6.24. Learned counsel submits that the right to know, though flowing from Article 19(1)(a) of the Constitution, is not absolute. It is circumscribed by legitimate considerations of secrecy where warranted, particularly when the information sought does not pertain to public acts or public transactions carried out by public functionaries in a public capacity.

6.25. It is contended that while the RTI Act is a potent tool to combat corruption and ensure transparency, the Hon'ble Supreme Court has categorically observed that equal importance must be accorded to other public interests,



such as confidentiality of sensitive information, protection of fiduciary relationships, and efficient functioning of public authorities. The Act is not intended to be deployed in a manner that disregards these countervailing interests.

6.26. On the strength of the above principles, learned counsel submits that the right exercisable under the RTI Act is essentially a right to seek information regarding the functioning, actions, and decisions of public authorities and public functionaries. It is not a mechanism to access private personal information of individuals, which happens to be in the custody of a public authority.

6.27. According to the Petitioner, income tax returns are private documents submitted by an assessee to the Department in compliance with statutory requirements. Such returns do not relate to any public act performed by a public functionary but concern the personal financial affairs of an individual. Hence, it is contended that disclosure of income tax returns does not fall within the core objective of the RTI Act and



is instead protected by the exemptions carved out under Section 8.

6.28. Learned counsel for the Petitioner contends that the right to information, as recognised under the RTI Act, is intended to operate as a powerful instrument in the hands of responsible citizens to promote transparency, ensure accountability, and combat corruption in public administration. The legislative intent, according to him, is to expose maladministration and bring clarity to the functioning of public authorities.

6.29. It is submitted that the present request does not advance any such objective. The information sought pertains exclusively to the personal financial affairs of a private individual and arises in the context of a private dispute between spouses. There is no allegation of corruption, misuse of public office, or irregularity in the functioning of the Income Tax Department. Nor is there any element of public accountability implicated in the request.

6.30. In the absence of any demonstrable larger public interest or public purpose, it is contended



that the machinery of the RTI Act cannot be invoked to secure disclosure of private tax information. The statutory exemptions under Section 8, particularly those protecting fiduciary relationships and personal privacy, would therefore operate as a bar to disclosure.

6.31. He relies upon the decision of the Hon'ble Apex Court in ***Girish Ramchandra Deshpande Vs. Cen. Information Commr. & Ors.***,⁴ more particularly, paras 13 and 14 thereof, which is reproduced hereunder for easy reference:

13. *We are in agreement with the CIC and the courts below that the details called for by the Petitioner ie copies of all memos issued to the third respondent, show cause notices and orders of censure/punishment etc. are qualified to be personal information as defined in clause (j) of Section 8(1) of the RTI Act. The performance of an employee/officer in an organisation is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression personal information, the disclosure of which has no relationship to any public activity or public interest. On the other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual. (Of course, in a given case, if the Central Public Information Officer or the State Public Information Officer of the Appellate*

⁴ SLP(C) No.27734/2012



Authority is satisfied that the larger public interest justifies the disclosure of such information, appropriate orders could be passed but the Petitioner cannot claim those details as a matter of right.

14. *The details disclosed by a person in his income tax returns are personal information which stand exempted from disclosure under clause (i) of Section 8(1) of the RTI Act, unless involves a larger public interest and the Central Public Information Officer or the State Public Information Officer or the Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information."*

6.32. By relying on **Girish Ramchandra Deshpande.**, he submits that the Hon'ble Supreme Court categorically held that service records, memos, show-cause notices, and orders of censure relating to an employee constitute "personal information" within the meaning of Section 8(1)(j) of the RTI Act. The Hon'ble Supreme Court observed that such matters primarily concern the relationship between employer and employee and their disclosure would ordinarily amount to an unwarranted invasion of privacy, unless justified by a larger public interest.



6.33. More significantly, learned counsel submits that the Hon'ble Supreme Court expressly held that details disclosed by a person in his income tax returns are personal information and are exempt from disclosure under Section 8(1)(j) of the RTI Act, unless a larger public interest is established and the competent authority is satisfied that disclosure is warranted.

6.34. It is contended that the issue in the present case stands squarely covered. Income tax returns, by their very nature, contain personal financial particulars of an individual and fall within the protective ambit of Section 8(1)(j). The exemption is qualified only by the existence of a larger public interest, which must be demonstrated and cannot be presumed.

6.35. According to the Petitioner, in the present case, the request emanates from a private matrimonial dispute and does not involve any question of public accountability, corruption, or misuse of public office. In the absence of any overriding public interest, the information sought remains exempt from disclosure. Therefore, it is submitted that the direction



issued by the Central Information Commission is contrary to the law laid down by the Hon'ble Supreme Court in ***Girish Ramchandra Deshpande***.

6.36. He relies upon the decision in ***Shailesh Gandhi Vs. Central Information Commission***⁵, more particularly, para 25 thereof, which is reproduced hereunder for easy reference:

"25. In my view therefore, the proviso cannot be sought to be interpreted in the manner which the Learned Counsel for the Petitioner seeks to do. There is also a basic fallacy in the contention raised on behalf of the Petitioner. The Petitioner wants to proceed on the hypothesis that the information sought by him cannot be denied to the Parliament. In so far as the Parliament is concerned, the Parliament has its own rules of business and it therefore cannot be presumed that the information in respect of the Income Tax Returns of a Member of Legislature would be sought. The same would undoubtedly be in the discretion of the Honourable Speaker. In the said context, it is also relevant to refer to Section 75A of the Representation of the People Act under which every elected candidate for a House of Parliament has to furnish information relating to the movable and immovable property, his liabilities to any public financial institution, his liabilities to the Central Government or the State Government to the Chairman of the Council of States or the Speaker of the House of the People i.e. Lok Sabha or the Chairman of the Council of

⁵ (2015) 58 Taxmann.Com 147 (Bombay)



the State i.e. Rajyasabha. Hence there are adequate provisions in the Representation of the People Act under which the information sought is to be provided to the Parliament to the extent mentioned in the said provisions and therefore reliance cannot be placed on the proviso to Section 8(1)(j) to contend that the exemption provided in the said Section would not operate.”

6.37. By relying on **Shailesh Gandhi**, he submits that in the said judgment, the Hon'ble Bombay High Court examined the scope of the proviso to Section 8(1)(j) of the RTI Act and rejected the contention that information which could hypothetically be sought by Parliament must necessarily be disclosed under the RTI Act. The Court observed that Parliament functions under its own procedural framework and statutory mechanisms, including specific legislative provisions such as Section 75A of the Representation of the People Act, which mandate disclosure of certain financial particulars by elected representatives. Therefore, the mere possibility that information could be sought in another forum does not dilute or override the exemptions provided under Section 8(1)(j).



6.38. On the strength of the above reasoning, learned counsel submits that the exemptions carved out under Clause (j) of Sub-section (1) of Section 8 are substantive protections and must be given full effect. The proviso cannot be so interpreted as to render the exemption otiose. Personal information, particularly financial information such as income tax returns, remains protected unless the statutory requirement of a larger public interest is clearly satisfied.

6.39. It is therefore contended that the Central Information Commission, while directing disclosure, failed to accord due weight to the statutory exemption under Section 8(1)(j) and the settled judicial position that such exemptions are not to be lightly disregarded.

6.40. He relies upon the decision in ***CPIO/Deputy Commissioner of Income Tax***⁶, more particularly, para 19 thereof, which is reproduced hereunder for easy reference:

"19. The issue raised herein has been settled by a Bench of three Member Bench of the CIC which, in the opinion of this Court, is binding on

⁶ (2024) 464 ITR 672 (Delhi)



the Bench which has passed the impugned order. A Bench of three Commissioners of the CIC in G.R. Rawal v. Director General of Income Tax (Investigation), 2008 SCC OnLine CIC 1008, while considering the very same issue has observed as under:

"15. Thus, both the Right to Information Act, 2005 and Section 138 of the Income Tax Act, 1961 deal with disclosure of information. While Right to Information Act is a general law concerning the disclosure of information by the public authorities, Section 138 of the Income Tax Act is a special legislation dealing with disclosure of information concerning the assesses. This Commission in "Rakesh Kumar Gupta v. ITAT, decided on 18th September, 2007 decided by a Full Bench, has dealt with the issue of applicability of special law to the exclusion of the general law. The Commission has relied upon the Hon'ble Apex Court's decision in "Chandra Prakash Tiwari v. Shakuntala Shukla — AIR 2002 SC 2322". The following two paragraphs from the said decision of the Commission are pertinent and quoted below:

37. A special enactment or Rule, therefore, cannot be held to be overridden by a later general enactment or simply because the latter opens up with a nonobstante clause unless there is clear inconsistency between the two legislations — one which is later in order of time and the other which is a special enactment. This issue came again for consideration before the Hon'ble Apex Court in Chandra Prakash Tiwari v. Shakuntala Shukla —AIR 2002 SC 2322 and the Hon'ble Supreme Court quoted with approval the Broom's Legal Maxim in reference to two Latin Maxims in the following words:



"It is then, an elementary Rule that an earlier Act must give place to a later, if the two cannot be reconciled - lex posterior derogate priori - non est novum ut priores leges ad posteriors trahantur (Emphasis supplied) - and one Act may repeal another by express words or by implication; for it is enough if there be words which by necessary implication repeal it. But repeal by implication is never to be favoured, and must not be imputed to the legislature without necessity, or strong reason, to be shown by the party imputing it. It is only effected where the provisions of the later enactment are so inconsistent with, or repugnant to, those of the earlier that the two cannot stand together²; unless the two Acts are so plainly repugnant to each other that effect cannot be given to both at the same time a repeal cannot be implied; and special Acts are not repealed by general Acts unless there be some express reference to the previous legislation, or a necessary inconsistency in the two Acts standing together, which prevents the maxim generalia specialibus non derogant (Emphasis supplied) from being applied. For where there are general words in a later Act capable of reasonable application without being extended to subjects specially dealt with by earlier legislation, then, in the absence of an indication of a particular intention to that effect, the presumption is that the general words were not intended to repeal the earlier and special legislation, or to take away a particular privilege of a particular class of persons."

38. In the aforesaid case, the Hon'ble Apex Court also cited with approval an earlier decision in *Maharaja Pratap Singh Bahadur v. Thakur Manmohan Dey* - MANU/SC/0202/1966,



in which it was indicated that an earlier special law cannot be held to have been abrogated by mere implication. That being so, the argument regarding implied repeal has to be rejected for both the reasons set out above."

Propriety demanded that the CIC ought to have followed the opinion of the larger Bench, which is binding on it."

6.41. By relying on ***Girish Mittal***, he submits that in that case reliance was placed on the earlier three-Member Bench decision of the Central Information Commission in ***G.R. Rawal v. Director General of Income Tax (Investigation)***.

6.42. It is submitted that in the said decisions, the interplay between the Right to Information Act, 2005 and Section 138 of the Income-tax Act, 1961 was specifically considered. The reasoning adopted therein proceeds on the principle that while the RTI Act is a general enactment governing access to information held by public authorities, Section 138 of the Income-tax Act is a special statutory provision dealing specifically with disclosure of information relating to assesseees.



6.43. Relying upon the well-established maxim ***generalia specialibus non derogant***, it is contended that a later general law does not impliedly override an earlier special law unless there is clear inconsistency or irreconcilable repugnancy between the two. Repeal by implication is not to be readily inferred.

6.44. Section 138(1)(b) of the Income-tax Act expressly regulates disclosure of information relating to an assessee and vests discretion in specified high-ranking authorities, namely the Principal Chief Commissioner, Chief Commissioner, Principal Commissioner or Commissioner, to determine whether such information may be furnished. The statutory framework thus creates a specific mechanism and threshold for disclosure of income tax information.

6.45. According to the Petitioner, this special statutory regime governing confidentiality of tax information would prevail over the general provisions of the RTI Act by virtue of settled principles of statutory interpretation. It is therefore contended that Section 138 of the



Income-tax Act operates as a self-contained code concerning disclosure of assessee information and cannot be bypassed by invoking Section 22 of the RTI Act. Consequently, the direction issued by the Central Information Commission is stated to be contrary to the binding statutory scheme and the settled position of law.

6.46. In the aforesaid factual and legal backdrop, learned counsel for the Petitioner submits that the impugned order passed by the Central Information Commission is unsustainable in law.

6.47. It is contended that the Commission has failed to properly appreciate:

6.47.1. The fiduciary relationship between the Income Tax Department and the assessee;

6.47.2. The statutory exemptions under Sections 8(1)(e) and 8(1)(j) of the RTI Act;

6.47.3. The protection afforded to personal financial information under binding



precedents of the Hon'ble Supreme Court; and

6.47.4. The overriding effect of the special mechanism under Section 138 of the Income-tax Act, 1961.

6.48. According to the Petitioner, the information sought pertains exclusively to private financial affairs of a third party, does not relate to any public activity, and does not satisfy the threshold of larger public interest. The direction to disclose, therefore, is alleged to be contrary to the statutory scheme and settled judicial principles.

6.49. On these grounds, it is submitted that the present writ petition deserves to be allowed, the order dated 12.04.2019 passed by the Central Information Commission is liable to be set aside, and the RTI application filed by Respondent No.1 deserves to be rejected.

7. Sri Kemparaju, learned counsel for Respondent No.1, submits that:

7.1. Respondent No.1 is the legally wedded wife of Sri Zafar Ali S/o Asar Ali. In that view of the



matter, it is contended that the husband cannot be treated as a "third party" vis-à-vis his wife in a strict or adversarial sense, or vice versa, particularly when the information sought pertains to issues directly impacting her legal rights. The relationship between the parties, being matrimonial, carries with it reciprocal obligations, including financial disclosure in appropriate proceedings.

7.2. Respondent No.1 had instituted proceedings under Section 12(1) of the Protection of Women from Domestic Violence Act, 2005. In the said proceedings, it was specifically pleaded that the husband was carrying on business in Bengaluru under the name S.A. Trading Company, engaged in the sale and purchase of sewing machines. Though the husband is stated to have indicated that he could produce income tax returns pertaining to his business, he neither disclosed the turnover nor produced the relevant income tax returns before the Court.

7.3. It is submitted that an application was filed before the concerned Magistrate seeking a direction to the husband to produce his income



tax returns. However, in the final adjudication of the matter, the said aspect was not effectively addressed. The Court, observing that there was no specific evidence regarding the earnings of the husband, rejected the claim of maintenance at Rs.75,000/- per month and awarded only Rs.7,000/- per month.

7.4. Aggrieved by the quantum awarded, Respondent No.1 preferred Criminal Appeal No.303/2017 before the Sessions Court. The appellate court also declined to enhance the maintenance on the ground that no documentary evidence had been placed on record to establish the actual income of the husband. It is further submitted that even the maintenance amount so awarded was not regularly paid, resulting in the issuance of recovery-cum-arrest warrants. An application seeking stay of the distress warrant was also filed by the husband.

7.5. It is in this factual backdrop that Respondent No.1 invoked the provisions of the RTI Act and sought copies of the income tax returns filed by her husband, with the specific object of placing



the same before the competent courts to substantiate her claim for maintenance.

7.6. Learned counsel emphasises that in the RTI application itself, Respondent No.1 clearly disclosed that she was the wife of the concerned assessee and that the information was sought in connection with proceedings pending before the XLVI Metropolitan Magistrate Court at Mumbai under the Domestic Violence Act. It was expressly stated that the information was required because the courts had recorded a finding that no specific proof of income had been produced.

7.7. It is therefore submitted that Respondent No.1 has no alternative or effective mechanism to establish the true income of her husband except by obtaining copies of the income tax returns filed by him. The income details being within the exclusive knowledge and control of the husband and the Income Tax Department, denial of such information would effectively defeat her statutory right to seek appropriate maintenance.



7.8. According to learned counsel, these aspects were duly considered by the Central Information Commission, which, upon appreciating the peculiar facts and the nature of the request, allowed the appeal and directed disclosure. It is therefore contended that the order of the Central Information Commission is reasoned, justified, and does not warrant interference under Article 226 of the Constitution.

7.9. He relies upon the decision of the Hon'ble Gujarat High Court in ***Rajendra Vasantlal Shah Vs. Central Information Commissioner, New Delhi & Ors***⁷. more particularly, paras 8.2 and 8.4 thereof, which are reproduced hereunder for easy reference:

"8.2 Accounts of respondent No.4, being a Religious Charitable Trust, is statutorily audited, whose administration is subject to certain controls by the Charity Commissioner Information Commissioner, under the Bombay Public Trust Act. Its action of filing income-tax returns with the In-come Tax Department cannot be, in the con-text of the RTI. 'Act, viewed as a fiduciary relationship. No contrary interpretation can be given to defeat the object of the act, rendering lack of transparency in

⁷ AIR 2011 Gujarat 70



functioning of public and religious charitable trusts which carry considerable importance in their functioning, which touch greater portion of the population through different activities and would also make them immune from publishing their accounts, expenditure, funds, etc.

8.4 *As already noted, respondent No.4 is a religious charitable Trust, functioning un-der the Scheme formulated by the District Court, having considerable public importance and registered under the Bombay Public Trust Act, as a religious charitable Trust. Considering its nature and activities, emerging from the objects of the Trust, it can be stated that disclosure of such information is in relation to any public interest of activity. The Trust is engaged, in public activities, disclosure of its statements and accounts of income-tax returns and assessments orders cannot be withheld under Section 8(1)(c) or (j) of the RTI. Act."*

7.10. By relying on the judgment of the Hon'ble Gujarat High Court in **Rajendra Vasantlal Shah**, he submits that in the said decision, the Hon'ble Gujarat High Court considered whether income tax returns filed by a religious charitable trust could be withheld under the exemptions contained in Section 8(1) of the RTI Act on the ground of fiduciary relationship or privacy. The Hon'ble Gujarat High Court held that the filing of income tax returns by such a



trust, which was subject to statutory regulation and audit under the Bombay Public Trust Act and whose functioning was of considerable public importance, could not be treated as constituting a fiduciary relationship so as to defeat the object of the RTI Act.

7.11. The Hon'ble Gujarat High Court observed that a public charitable trust, engaged in activities affecting a significant section of the public and operating under statutory control, cannot claim immunity from disclosure of its financial statements and assessment orders. In such circumstances, disclosure of income tax returns was held to be connected with public interest and transparency in public functioning.

7.12. Learned counsel submits that the concept of fiduciary relationship cannot be expansively interpreted so as to shield all income tax returns from disclosure under the RTI Act. According to him, the mere fact that a return is filed with the Income Tax Department does not, by itself, create a blanket fiduciary protection.

7.13. It is therefore contended that the Income Tax Department cannot mechanically invoke Section



8(1)(e) or 8(1)(j) in every case involving income tax returns. Where the information sought bears relevance to the enforcement of legal rights and involves elements of public interest or statutory obligations, disclosure may be warranted. Learned counsel submits that the Central Information Commission, having considered these principles, rightly directed disclosure in the present case.

7.14. He relies upon the decision of the Hon'ble Delhi High Court in ***Kusum Sharma Vs. Mahinder Kumar Sharma***⁸, more particularly, para 16 thereof, which is reproduced hereunder for easy reference:

"16. In Puneet Kaur v. Inderjit Singh Sawhney (supra), this Court, while dealing with Section 24 of the Hindu Marriage Act, directed both the parties to file detailed affidavits of their assets, income and expenditure. The relevant portion of the said judgment is held as under:

7. ...both the parties are directed to file their respective affidavits of assets, income and expenditure from the date of the marriage up to this date containing the following particulars:--

7.1 Personal Information

(i) Educational qualifications.

⁸ FAO 369/1996 dated 14.01.2015.



(ii) Professional qualifications.

(iii) Present occupation.

(iv) Particulars of past occupation,

(v) Members of the family.

(a) Dependent.

(b) Independent.

7.2 Income

(i) Salary, if in service.

(ii) Income from business/profession, if self employed.

(iii) Particulars of all earnings since marriage.

(iv) Income from other sources:--

(a) Rent.

(b) Interest on bank deposits and FDRs.

(c) Other interest i.e. on loan, deposits, NSC, IVP, KVP, Post Office schemes, PPF etc.

(d) Dividends.

(e) Income from machinery, plant or furniture let on hire.

(f) Gifts and Donations.

(g) Profit on sale of movable/immovable assets.

(h) Any other income not covered above.

7.3 Assets

(i) Immovable properties:--



(a) Building in the name of self and its Fair Market Value (FMV):--

- Residential.*
- Commercial.*
- Mortgage.*
- Given on rent.*
- Others.*

(b) Plot/land.

(c) Leasehold property.

(d) Intangible property e.g. patents, trademark, design, goodwill.

(e) Properties in the name of family members/HUF and their FMV.

(ii) Movable properties:--

- (a) Furniture and fixtures.*
- (b) Plant and Machinery.*
- (c) Livestock.*

(d) Vehicles i.e. car, scooter along with their brand and registration number.

(iii) Investments:--

- (a) Bank Accounts - Current or Savings.*
- (b) Demat Accounts.*
- (c) Cash.*



(d) FDRs, NSC, IVP, KVP, Post Office schemes, PPF etc.

(e) Stocks, shares, debentures, bonds, units and mutual funds.

(f) LIC policy.

(g) Deposits with Government and Non-Government entities.

(h) Loan given to friends, relatives and others.

(i) Telephone, mobile phone and their numbers.

(j) TV, Fridge, Air Conditioner, etc.

(k) Other household appliances.

(l) Computer, Laptop.

(m) Other electronic gadgets including I-pad etc.

(n) Gold, silver and diamond Jewellery.

(o) Silver Utensils.

(p) Capital in partnership firm, sole proprietorship firm.

(q) Shares in the Company in which Director.

(r) Undivided share in HUF property.

(s) Booking of any plot, flat, membership in Co-op. Group Housing Society.

(t) Other investments not covered by above items.

*(iv) Any other assets not covered above. 7.4
Liabilities*



(i) OD, CC, Term Loan from bank and other institutions.

(ii) Personal/business loan

(a) Secured.

(b) Unsecured.

(iii) Home loan.

*(iv) Income Tax, Wealth Tax and Property Tax.
7.5 Expenditure*

(i) Rent and maintenance including electricity, water and gas.

(ii) Lease rental, if any asset taken on hire.

(iii) Installment of any house loan, car loan, personal loan, business loan, etc.

(iv) Interest to bank or others.

(v) Education of children including tuition fee.

(vi) Conveyance including fuel, repair and maintenance of vehicle. Also give the average distance travelled every day.

(vii) Premium of LIC, Medi-claim, house and vehicle policy.

(viii) Premium of ULIP, Mutual Fund.

(ix) Contribution to PPF, EPF, approved superannuation fund.

(x) Mobile/landline phone bills.

(xi) Club subscription and usage, subscription to news papers, periodicals, magazines, etc.



(xii) Internet charges/cable charges.

(xiii) Household expenses including kitchen, clothing, etc.

(xiv) Salary of servants, gardener, watchmen, etc.

(xv) Medical/hospitalisation expenses. (xvi) Legal/litigation expenses.

(xvii) Expenditure on dependent family members.

(xviii) Expenditure on entertainment.

(xix) Expenditure on travel including outstation/foreign travel, business as well as personal. (xx) Expenditure on construction/renovation and furnishing of residence/office.

(xxi) Any other expenditure not covered above.

7.6 General Information regarding Standard of Living and Lifestyle

(i) Status of family members.

(ii) Credit/debit cards.

(iii) Expenditure on marriage including marriage of family members.

(iv) Expenditure on family functions including birthday of the children.

(v) Expenditure on festivals.

(vi) Expenditure on extra-curricular activities.

(vii) Destination of honeymoon.



(viii) Frequency of travel including outstation/foreign travel, business as well as personal.

(ix) Mode of travel in city/outside city.

(x) Mode of outstation/foreign travel including type of class.

(xi) Category of hotels used for stay, official as well as personal, including type of rooms.

(xii) Category of hospitals opted for medical treatment including type of rooms.

(xiii) Name of school(s) where the child or children are studying.

(xiv) Brand of vehicle, mobile and wrist watch.

(xv) Value of jewellery worn.

(xvi) Details of residential accommodation. (xvii) Value of gifts received.

(xviii) Value of gifts given at family functions.

(xix) Value of donations given.

(xx) Particulars of credit card/debit card, its limit and usage.

(xxi) Average monthly withdrawal from bank.

(xxii) Type of restaurant visited for dining out.

(xxiii) Membership of clubs, societies and other associations.

(xxiv) Brand of alcohol, if consumed.

(xxv) Particulars of all pending as well as decided cases including civil, criminal, labour, income tax, excise, property tax, MACT, etc. with parties name.



8. Both the parties are also directed to file, along with affidavit, copies of the documents relating to their assets, income and expenditure from the date of the marriage up to this date and more particularly the following:--

(i) Relevant documents with respect to income including Salary certificate, Form 16A, Income Tax Returns, certificate from the employer regarding cost to the company, balance sheet, etc.

(ii) Audited accounts, if deponent is running business and otherwise, non-audited accounts i.e. balance sheets, profit and loss account and capital account.

(iii) Statement of all bank accounts.

(iv) Statement of Demat accounts.

(v) Passport.

(vi) Credit cards.

(vii) Club membership cards.

(viii) Frequent Flyer cards.

(ix) PAN card.

(x) Applications seeking job, in case of unemployed person.

9. The affidavit and documents be filed within a period of four weeks with an advance copy to opposite parties who shall file their response within two weeks thereafter.

11. Both the parties are directed to remain present in Court on the next date of hearing



along with all original documents relating to their assets, income and expenditure."

7.15. By relying on ***Kusum Sharma's*** case, his submission is that comprehensive directions were issued mandating both parties in matrimonial proceedings to file detailed affidavits of their assets, income, expenditure, liabilities, and standard of living, along with supporting documentary evidence including income tax returns, bank statements, audited accounts, and related financial records.

7.16. Placing reliance on the said decision, learned counsel submits that matrimonial litigation, particularly proceedings concerning maintenance, necessarily requires full and frank disclosure of financial capacity by both spouses. The Hon'ble Delhi High Court recognised that accurate adjudication of maintenance claims is impossible without reliable material regarding income and assets, and accordingly imposed an obligation on parties to disclose detailed financial information.

7.17. It is therefore contended that in matrimonial disputes, there is a positive duty cast upon the husband to disclose his true income and



financial position. Where such disclosure is withheld, suppressed, or inadequately made, the other spouse cannot be left remediless. In such circumstances, it is submitted, the wife is entitled to seek access to authentic financial documents from the authority in lawful custody of such records, including income tax returns maintained by the Income Tax Department, for the limited purpose of producing the same before the competent court.

7.18. Learned counsel further submits that the context of matrimonial proceedings distinguishes the present case from ordinary third-party requests under the RTI Act. The information sought is not for public dissemination, nor for general transparency in governance, but for enforcement of statutory and legal rights arising out of the matrimonial relationship. The objective is to enable the court to determine a just and fair maintenance.

7.19. It is therefore urged that when one spouse seeks disclosure of income tax returns of the other spouse in aid of maintenance proceedings, such a request cannot be equated



with a demand for disclosure of purely private information in the public domain. Rather, it is an effort to secure relevant evidence for adjudication of legal rights. In that view of the matter, learned counsel submits that the direction issued by the Central Information Commission does not warrant interference.

7.20. He relies upon the decision of the Central Information Commission in ***Neena Bhatnagar Mani Vs. Chief Commissioner of Income Tax***⁹, more particularly, the extracts as under.

"The Appellant reiterated the contents of the RTI application and stated that the desired information was not provided, till date, despite the fact that she was the legally wedded wife of the Third Party. While referring to the decision of the Division Bench of the High Court of MP in the matter of Smt. Sunita Jain vs. Pawan Kumar Jain and others W.A. No. 168/2015 and Smt. Sunita Jain vs. Bharat Sanchar Nigam Limited and others W.A. No. 170/2015 dated 15.05.2018, the Appellant submitted that the legal position as enunciated in the said judgement would prevail over the decision of stay of the High Court of Karnataka in Writ Petition No. 18778/2017 (GM-RES) since the decision of High Court of Karnataka was binding only on the parties contesting the matter therein. In its reply, the Respondent reiterated the response of the CPIO/ FAA as also their written submission and contended that a

⁹ S.A.No.CIC/CCITB/A/2018/106268-BJ dated 18.6.2019



similar matter decided by the Commission was challenged by them before the High Court of Karnataka in Writ Petition No. 18778/2017 (GM-RES) and the Court had passed an interim order dated 28.04.2017 directing issue of notice to the Respondents and in the meanwhile granted interim stay. The Appellant while submitting that she was not in receipt of the written submission of the Respondent provided her e-mail id (neena.bhatnagar@gmail.com) to the Respondent in order to forward the written submission to her by email for her ready reference.

The Commission was in receipt of a written submission from the Appellant dated 13.06.2019 wherein while explaining the background of the matter it was stated that she was the legally wedded wife of Mr. Bhaskar Mani since 23.02.1992 and had a right to be maintained by her husband under the Hindu law which he was refusing on the claim that he had no income despite Court orders. She further explained that she was married for 27 years and was now a Senior Citizen with multiple serious illnesses and was dependent on her married sisters for the last 11 years. Hence the information sought became life related information necessary to live a life of dignity, refusal of which would greatly perpetuate her hardship. She further submitted that her request for information fell within the ambit and scope of the RTI Act since the protection of privacy was overridden by the huge public interest in preventing deserted wives from facing a life of destitution and indignity as provided under the Hindu Law and the proviso to Section 8 (1) (j). While re-iterating her RTI application/ reply of the CPIO/ First Appeal and the reply of the FAA, the Appellant referred to several judgements to submit that maintenance was not merely a legal



right but was part and parcel of basic human right. Depending on the financial condition and non-availability of support from parents, when husband does not maintain a wife, it challenges her right to live, and thus the information related to maintenance became life related information. In support of her contention, the Appellant relied on the decision of the High Court of Madhya Pradesh in Smt. Sunita Jain vs. Pawan Kumar Jain and others W.A. No. 168/2015 and Smt. Sunita Jain vs. Bharat Sanchar Nigam Limited and others W.A. No. 170/2015 dated 15.05.2018, decision of the High Court of Bombay (Nagpur Bench) in the matter of Rajesh Ramachandra Kidile vs. Maharashtra SIC and Ors in W.P. No. 1766 of 2016 dated 22.10.2018, decisions of the Commission in CIC/BS/A/2015/002182-BJ dated 11.05.2017 and CIC/BS/A/2015/002040-BJ dated 20.04.2017 and CIC/EPFOG/A/2017/175772 in support of her contention. Thus, while stating that since December, 2014 her husband had used one ploy or another to not pay her maintenance due to her under law and that arrears on the Court Order exceeded Rs. 15 lakhs, the Appellant prayed to set aside the order of the CPIO/ FAA (Jt. Commissioner) and direct the CPIO/ SPIO to provide her the information without further delay."

7.21. By relying on **Neena Bhatnagar Mani's** case, his submission is that in the said case, the Commission was dealing with a similar situation where the legally wedded wife had sought disclosure of the income tax returns of her husband for the purpose of enforcing her claim for maintenance. The applicant therein had



contended that despite subsisting matrimonial obligations and court orders, the husband had refused to maintain her, asserting lack of income, while withholding authentic financial particulars.

7.22. The Commission, in that context, considered the plea that maintenance is not merely a statutory entitlement but forms an integral component of the right to live with dignity. It was urged before the Commission that denial of financial support, particularly where the wife was dependent and without independent means, directly impacted her right to livelihood and survival.

7.23. Learned counsel submits that the Commission in the said case examined the interplay between the right to privacy and the concept of larger public interest under Section 8(1)(j) of the RTI Act. It was observed that in circumstances where a deserted wife is deprived of financial support and is unable to substantiate her claim due to non-disclosure of income details by the husband, the balance may tilt in favour of disclosure, as the



information becomes intrinsically connected with her right to life and dignity.

7.24. Learned counsel submits that maintenance cannot be viewed as a mere private dispute devoid of public interest. The obligation of a husband to maintain his wife is recognised under personal laws and statutory enactments. When such an obligation is evaded and the wife is rendered financially vulnerable, denial of access to income-related information would perpetuate hardship and undermine her fundamental rights.

7.25. It is therefore contended that income tax returns, in such a context, assume the character of life-related information, as they directly enable the court to determine appropriate maintenance. The disclosure sought is not for public circulation but for the enforcement of lawful rights before a competent court. Accordingly, it is submitted that the Central Information Commission rightly appreciated these considerations and allowed the request, and the writ petition deserves to be dismissed.



7.26. He relies upon the decision of the Hon'ble Madhya Pradesh High Court in **Smt.Sunita Jain Vs. Bharat Sanchar Nigam Ltd.,¹⁰** more particularly, paras 10, 11 and 12 thereof, which are reproduced hereunder for easy reference:

"The controversy involved in the present writ appeal is whether the information sought is exempt under Section 8(1)(j) of the Act or it is covered by Section 4(1)(b)(x) which obliges the public authorities to display on public domain the monthly remuneration received by each of its officers and employees.

While dealing with the Section 8(1)(j) of the Act, we cannot lose sight of the fact that the appellant and the respondent No.1 are husband and wife and as a wife she is entitled to know what remuneration the respondent No.1 is getting.

Present case is distinguishable from the case of Girish Ramchandra Deshpande (supra) and therefore the law laid down by their Lordships in the case of Girish Ramchandra Deshpande (supra) are not applicable in the present case.

In view of the foregoing discussion, we allow the appeal and set aside the order passed by the Writ Court in W.P. No.341/2008. Similarly, the W.A. No.170/2015 is also allowed and the impugned order passed in W.P. No.1647/2008 is set aside."

¹⁰ W.A.No.170/2015 dated 15.05.2018



7.27. By relying on ***Sunita Jain's*** case, he submits that in the said case, the issue concerned the disclosure of the monthly remuneration of a husband employed with a public authority. The Hon'ble Madhya Pradesh High Court observed that while considering the exemption under Section 8(1)(j) of the RTI Act, the marital relationship between the parties could not be ignored. The Court held that a wife is entitled to know the remuneration earned by her husband, especially when such information is relevant for enforcement of her legal rights.

7.28. The High Court further distinguished the decision in ***Girish Ramchandra Deshpande***, holding that the facts therein were materially different and that the ratio of that case would not automatically apply in a matrimonial context where financial disclosure is directly connected with maintenance and legal entitlements.

7.29. On the basis of the said judgment, learned counsel submits that where a public authority is statutorily obliged under Section 4(1)(b)(x) of the RTI Act to disclose the monthly



remuneration of its officers and employees, such information cannot be shielded under the guise of personal privacy under Section 8(1)(j). Transparency in respect of income earned from public employment carries a distinct character.

7.30. It is therefore contended that if salary details of a public servant cannot be withheld from a spouse under Section 8(1)(j), a similar approach should inform the interpretation of disclosure obligations where the financial capacity of a husband is directly in issue in maintenance proceedings. Learned counsel submits that the exemption provision cannot be applied mechanically so as to defeat substantive legal rights of a spouse seeking maintenance.

7.31. He relies upon the judgment of the Hon'ble Bombay High Court in ***Rajesh Ramchandra Kidile Vs. Maharashtra SIC and others***¹¹, more particularly, paras 7 and 8 thereof, which are reproduced hereunder for easy reference:

"7. I would have accepted the contention of the learned counsel for the respondent No.3 had the application been filed on behalf of his estranged

¹¹ WP No.1766/2016 dated 22.10.2018



wife of the Petitioner. A plain reading of this application, a copy of which is available at Page 16, would show that the application has been filed in his own capacity by the Advocate and not on behalf of his client and so, the argument is rejected. It would be necessary now to consider the nature of information sought by this application.

8. Perusal of this application shows that the salary slips for the period mentioned in the application have been sought for by the Advocate. As rightly submitted by the learned counsel for the Petitioner, the salary slips contain such details as deductions made from the salary, remittances made to the Bank by way of loan installments, remittances made to the Income Tax Authority towards part payment of the Income Tax for the concerned month and other details relating to contributions made to Provident Fund etc. It is here that the information contained in the salary slips would make the salary slips as having the characteristic of personal nature. Any information which discloses, as for example, remittances made to the Income Tax Department towards discharge of tax liability or to the Bank towards discharge of loan liability would constitute the personal information and would encroach upon the privacy of the person. Therefore, as held by the Hon'ble Apex Court in the case of *Girish Ramchandra Deshpande (supra)*, such an information could not be disclosed under the provisions of the RI Act. This is all the more so when the information seeker is a person who is totally stranger in blood or marital relationship to the person whose information he wants to lay his hands on. It would have been a different matter, had the information been sought by the wife of the



Petitioner in order to support her contention in a litigation, which she has filed against her husband. In a litigation, wherein the issue involved is of maintenance of wife, the information relating to salary details no longer remains confined to the category of personal information of the husband alone and it assumes the characteristic of personal information concerning both husband and wife, which is available with the husband and hence accessible by the wife. But, in the present case, as stated earlier, the application has not been filed by the wife."

7.32. By relying on **Rajesh Ramchandra Kidile's**, it is submitted that in the said case, the High Court was considering a request for salary slips of an employee. The Court noted that salary slips ordinarily contain details such as deductions towards income tax, loan repayments, provident fund contributions, and other financial particulars which partake the character of personal information. On that basis, and applying the ratio of **Girish Ramchandra Deshpande**, the Court held that such information could not ordinarily be disclosed under the RTI Act when sought by a stranger.



7.33. However, learned counsel draws specific attention to the significant observation made by the High Court that the matter would stand on a different footing if the information were sought by the wife in aid of litigation concerning maintenance. The Court expressly observed that in such circumstances, the information relating to salary details would no longer remain confined to the personal sphere of the husband alone but would assume relevance to both spouses, particularly when the issue of maintenance is directly in question.

7.34. Learned counsel submits that the present case squarely falls within the category contemplated by the Bombay High Court. Here, the applicant is not a stranger but the legally wedded wife, and the information is sought for the limited purpose of substantiating her claim in pending matrimonial proceedings. The financial capacity of the husband being directly in issue, the information assumes shared relevance rather than remaining exclusively personal.

7.35. It is therefore contended that the observations in ***Rajesh Ramchandra Kidile*** fortify the



stand of Respondent No.1 that disclosure in matrimonial litigation stands on a distinct footing and that the Central Information Commission rightly appreciated this distinction while directing disclosure.

7.36. He also relies upon the decision of the Hon'ble Apex Court in ***Girish Ramchandra Deshpande Vs. Central Information Commissioner and others***¹², more particularly, paras 2 and 13 thereof, which are reproduced hereunder for easy reference:

"2. We are, in this case, concerned with the question whether the Central Information Commissioner (for short 'the CIC') acting under the Right to Information Act, 2005 (for short 'the RTI Act') was right in denying information regarding the third respondent's personal matters pertaining to his service career and also denying the details of his assets and liabilities, movable and immovable properties on the ground that the information sought for was qualified to be personal information as defined in clause (j) of Section 8(1) of the RTI Act.

13. We are in agreement with the CIC and the courts below that the details called for by the Petitioner i.e. copies of all memos issued to the third respondent, show cause notices and orders of censure/punishment etc. are qualified to be personal information as defined in clause (j) of

¹² SLP(C).No.27734/2012



Section 8(1) of the RTI Act. The performance of an employee/officer in an organisation is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression "personal information", the disclosure of which has no relationship to any public activity or public interest. On the other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual. Of course, in a given case, if the Central Public Information Officer or the State Public Information Officer of the Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information, appropriate orders could be passed but the Petitioner cannot claim those details as a matter of right."

7.37. By relying on **Girish Ramchandra Deshpande's** case, it is submitted that in the said decision, the Hon'ble Supreme Court was concerned with whether service-related records and asset declarations of a public servant constituted "personal information" within the meaning of Section 8(1)(j) of the RTI Act. The Hon'ble Supreme Court held that such information ordinarily falls within the protected category of personal information and cannot be disclosed as a matter of right unless larger public interest justifies disclosure.



7.38. However, learned counsel emphasises that even in ***Girish Ramchandra Deshpande***, the Hon'ble Supreme Court expressly recognised that the exemption under Section 8(1)(j) is not absolute. The Public Information Officer or the Appellate Authority is vested with discretion to order disclosure if satisfied that larger public interest warrants it. Thus, the statute contemplates a case-specific evaluation rather than a blanket prohibition.

7.39. On that basis, it is submitted that in the present case, the Public Information Officer was required to examine whether the request of the wife, made in the context of pending maintenance proceedings, constituted a circumstance warranting disclosure. According to learned counsel, when a legally wedded wife seeks financial information to substantiate her claim for maintenance, an entitlement recognised under statutory and personal laws, the matter transcends a mere private curiosity and implicates her right to livelihood and dignity.



7.40. It is therefore contended that the Public Information Officer ought to have exercised his statutory discretion in a purposive manner, balancing privacy with the need to prevent injustice. The request, being directly connected to the enforcement of maintenance rights, could legitimately be regarded as falling within the ambit of "larger public interest" in ensuring that deserted spouses are not left remediless. Learned counsel submits that the Central Information Commission appreciated this dimension and that no error can be attributed to its decision directing disclosure.

7.41. He relies upon the decision of the Hon'ble Apex Court in ***Khanapuram Gandaiah Vs. Administrative Officer and Others***¹³, more particularly, para 6 thereof, which are reproduced hereunder for easy reference:

"6. *Under the RTI Act "information" is defined under Section 2(f) which provides:*

"information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, report, papers, samples, models, data material held in any electronic form and information relating to any

¹³ SLP No.34868/2009



private body which can be accessed by a public authority under any other law for the time being in force.”

This definition shows that an applicant under Section 6 of the RTI Act can get any information which is already in existence and accessible to the public authority under law. Of course, under the RTI Act an applicant is entitled to get copy of the opinions, advices, circulars, orders, etc., but he cannot ask for any information as to why such opinions, advices, circulars, orders, etc. have been passed, especially in matters pertaining to judicial decisions. A judge speaks through his judgments or orders passed by him. If any party feels aggrieved by the order/judgment passed by a judge, the remedy available to such a party is either to challenge the same by way of appeal or by revision or any other legally permissible mode. No litigant can be allowed to seek information as to why and for what reasons the judge had come to a particular decision or conclusion. A judge is not bound to explain later on for what reasons he had come to such a conclusion.”

7.42. By relying on ***Khanapuram Gandaiah***, it is submitted that in the said decision, the Hon’ble Supreme Court clarified the scope of the expression “information” under Section 2(f) of the RTI Act. The Hon’ble Supreme Court held that an applicant is entitled to seek material that is already in existence and accessible to a public authority under law. However, the Act does not permit a person to seek explanations, reasons, or justifications for judicial decisions,



as a judge speaks only through his or her orders and judgments.

7.43. Placing reliance on the said principle, learned counsel submits that the information sought in the present case squarely falls within the statutory definition of "information." Income tax returns, assessment records, and related documents are existing records held by a public authority in material form. The request is not for any opinion, reasoning, clarification, or explanation; rather, it is for copies of documents already available in the custody of the Department.

7.44. It is therefore contended that the objection raised by the Petitioner cannot be sustained on the ground that the request falls outside the definition of "information." The documents sought are tangible records within the meaning of Section 2(f), and hence, subject to the exemptions provided under Section 8, they are amenable to disclosure.

7.45. Learned counsel submits that once it is accepted that the material sought constitutes "information" under the Act, the only question



that remains is whether any valid exemption applies. In the present case, it is urged that the Central Information Commission, having examined the statutory scheme and the peculiar matrimonial context, rightly directed disclosure.

7.46. Learned counsel for Respondent No.1, by adverting to the definition of "information" under Section 2(f) of the RTI Act, submits that the expression is of wide amplitude. It encompasses any material in any form, including records, documents, memos, e-mails, opinions, advices and the like, and also extends to information relating to a private body which can be accessed by a public authority under any other law for the time being in force.

7.47. On that basis, it is contended that although the husband of Respondent No.1 is a private individual and not a public authority, the income tax returns and related financial records pertaining to him are in the lawful custody of the Income Tax Department. The Department, being a public authority within the meaning of



the RTI Act, has statutory access and control over such material.

7.48. Learned counsel therefore submits that once such information is held by, or accessible to, a public authority, it falls within the sweep of Section 2(f) and becomes amenable to a request under the RTI Act, subject of course to the statutory exemptions. The fact that the information concerns a private individual does not, by itself, place it beyond the reach of the Act.

7.49. Accordingly, it is urged that the request made by Respondent No.1 for copies of the income tax returns of her husband was maintainable under the RTI Act, and the Central Information Commission was justified in entertaining and allowing the appeal.

7.50. Learned counsel for Respondent No.1 reiterates that in proceedings relating to maintenance, determination of the husband's actual income is central to a just adjudication. The quantum of maintenance necessarily depends upon verified financial particulars such as income, assets, liabilities and overall financial capacity. Without



reliable documentary evidence, the court is constrained to proceed on approximations, often to the prejudice of the claimant spouse.

7.51. It is submitted that in the present case, the husband has not voluntarily produced his income tax returns or authentic financial records despite the pendency of proceedings. In such circumstances, Respondent No.1 is left without any effective means of establishing the true income of her husband. According to learned counsel, the RTI Act provides the only viable statutory mechanism through which she can access certified records already available with the Income Tax Department.

7.52. On the cumulative strength of the judicial precedents relied upon, it is contended that where financial disclosure is necessary to enforce maintenance rights, the balance between privacy and public interest must be struck in a manner that advances substantive justice. The information sought, namely income tax returns, assessment particulars and related banking details, is directly relevant to the pending proceedings and is not sought for



public dissemination but for limited production before the competent court.

7.53. It is therefore submitted that, given the estranged relationship between the parties, the non-cooperation of the husband, and the absence of any alternative mode of obtaining authentic financial information, the Central Information Commission acted in the interest of justice in directing disclosure. Learned counsel urges that no interference under Article 226 of the Constitution is warranted and that the writ petition deserves to be dismissed.

8. Sri Y.V.Ravi Raj, leaned counsel for the Petitioner, in rejoinder, would submit that

8.1. The stand of the Income Tax Department has been misunderstood. It is not the case of the Department that income tax returns or related records can never be produced.

8.2. The objection, according to him, is only to the mode by which such information is sought to be obtained. Learned counsel submits that confidential tax information cannot be furnished merely on the basis of an RTI application filed



by the spouse of the assessee. The statutory framework governing income tax records contemplates regulated disclosure and vests discretion in specified authorities or in courts of competent jurisdiction. It is contended that if a competent court, in the course of maintenance, matrimonial proceedings or the like, considers it necessary to summon the income tax returns of the husband, the Department would be bound to comply with such judicial direction. In that scenario, the court would exercise its discretion, evaluate relevance and necessity, and pass appropriate orders for the production of documents.

- 8.3. Therefore, the submission is that the proper course for Respondent No.1 is to invoke the procedural mechanisms available before the concerned court for summoning documents, rather than resorting to the RTI Act. According to learned counsel, permitting disclosure through RTI would bypass judicial scrutiny and dilute the statutory safeguards attached to confidential tax records.



- 8.4. On this premise, it is reiterated that the impugned order of the Central Information Commission is liable to be set aside.
9. Heard Sri Y.V.Raviraj, learned counsel for the Petitioner, Sri Kemparaju, learned counsel for respondent No.1, Sri Shanthi Bhushan, learned DSGI for respondent No.2 and perused papers.
10. The points that would arise for consideration are:
- i. **Whether the income tax returns, assessment particulars and related financial details of an assessee constitute "personal information" under Section 8(1)(j) of the Right to Information Act, 2005, and/or information held in a fiduciary capacity under Section 8(1)(e) of the said Act?**
 - ii. **Whether the husband of Respondent No.1 qualifies as a "third party" within the meaning of Section 2(n) of the RTI Act in the context of the RTI application filed by his spouse, and whether the matrimonial relationship has any legal bearing on that characterisation?**
 - iii. **Whether the disclosure sought by Respondent No.1, in connection with her claim for maintenance in pending matrimonial proceedings, satisfies the test of "larger public interest" so as to override the exemptions under Section 8 of the RTI Act?**



- iv. **Whether Section 138 of the Income-tax Act, 1961, being a special provision governing disclosure of assessee information, restricts or regulates disclosure under the RTI Act, and how it is to be harmoniously construed with Section 22 of the RTI Act?**
- v. **Whether, in the facts of the present case, the appropriate course for Respondent No.1 was to seek production of the income tax returns through the competent matrimonial court, rather than by invoking the provisions of the RTI Act?**
- vi. **Whether the order dated 12.04.2019 passed by the Central Information Commission directing disclosure of the information calls for interference under Article 226 of the Constitution of India?**
- vii. **What order?**

11. I answer the above points as follows:

12. **Answer to Point No. (i): Whether the income tax returns, assessment particulars and related financial details of an assessee constitute "personal information" under Section 8(1)(j) of the Right to Information Act, 2005, and/or information held in a fiduciary capacity under Section 8(1)(e) of the said Act?**

12.1. Sri Y.V. Raviraj, learned counsel for the Petitioner, contends that the information sought by Respondent No.1, namely the income tax



returns, assessment particulars and financial disclosures of the assessee, squarely falls within the protective ambit of Section 8(1)(j) of the Right to Information Act, 2005. It is submitted that such material constitutes personal information, the disclosure of which has no relationship to any public activity or public interest and would amount to an unwarranted invasion of privacy. The right to information, though recognised under the RTI Act, is not absolute and must be balanced against the constitutional right to privacy. Section 8(1)(j) embodies this legislative balance by carving out an exemption where personal information is sought without a demonstrable larger public interest.

- 12.2. Learned counsel further submits that the Income Tax Department holds the income tax returns and financial particulars of an assessee in a fiduciary capacity. Just as asset declarations made by Judges were argued in ***Subhash Chandra Agarwal's*** case to be held in confidence by the Chief Justice of India, the income tax returns furnished by an assessee are submitted to the Department under



statutory compulsion with an expectation of confidentiality. It is therefore contended that such information is held in a fiduciary capacity and attracts the exemption under Section 8(1)(e) of the RTI Act.

- 12.3. In support of his contention, learned counsel relies upon the decision of the Hon'ble Supreme Court in **Subhash Chandra Agarwal**, wherein the Hon'ble Supreme Court examined the scope of fiduciary obligations under Section 8(1)(e) and the nature of confidentiality attached to asset declarations. The Court emphasised the need to balance the statutory scheme of the RTI Act with the constitutional right to privacy under Part III of the Constitution.
- 12.4. Learned counsel further relies upon the decision of the Hon'ble Supreme Court in **Aditya Bandopadhyay**, where the Hon'ble Supreme Court observed that while the RTI Act is a potent tool to combat corruption and ensure transparency, equal importance must be accorded to other public interests such as confidentiality of sensitive information,



protection of fiduciary relationships, and efficient functioning of public authorities.

- 12.5. Learned counsel also relies upon the decision of the Hon'ble Supreme Court in **Girish Ramchandra Deshpande**, where the Hon'ble Supreme Court categorically held that details disclosed by a person in his income tax returns are personal information which stand exempted from disclosure under clause (j) of Section 8(1) of the RTI Act, unless a larger public interest is established and the competent authority is satisfied that disclosure is warranted.
- 12.6. Reliance is also placed on the decision in **Shailesh Gandhi**, wherein the Hon'ble Bombay High Court examined the scope of the proviso to Section 8(1)(j) of the RTI Act and held that the exemptions carved out under clause (j) of sub-section (1) of Section 8 are substantive protections and must be given full effect.
- 12.7. Further reliance is placed on the decision of the Hon'ble Bombay High Court, Aurangabad Bench, in **Adarsh**, where the Court examined the scope and interplay of Sections 8 and 11 of the RTI Act and held that where personal



information is sought and there is no larger public interest, the exemption under Section 8(1)(j) operates as a bar to disclosure. The Court observed that income tax/GST returns are protected from disclosure in the absence of a larger public interest.

12.8. Sri Kemparaju, learned counsel for Respondent No.1, submits that the concept of fiduciary relationship cannot be expansively interpreted so as to shield all income tax returns from disclosure under the RTI Act. The mere fact that a return is filed with the Income Tax Department does not, by itself, create a blanket fiduciary protection.

12.9. In support of this contention, learned counsel relies upon the decision of the Hon'ble Gujarat High Court in **Rajendra Vasantlal Shah**, wherein the Hon'ble Gujarat High Court held that filing of income tax returns by a public/charitable trust, which was subject to statutory regulation, could not be treated as constituting a fiduciary relationship so as to defeat the object of the RTI Act. The Court held that disclosure of income tax returns was



connected with public interest and transparency in public functioning.

12.10. Learned counsel further relies upon the decision of the Hon'ble Supreme Court in **Khanapuram Gandaiah**, to submit that income tax returns are existing records held by a public authority in material form and fall within the statutory definition of "information" under Section 2(f) of the RTI Act. The request is not for any opinion, reasoning, or explanation but for copies of documents already available in the custody of the Department.

12.11. It is further submitted by learned counsel for Respondent No.1 that even under the decision in **Girish Ramchandra Deshpande**, the Hon'ble Supreme Court expressly recognised that the exemption under Section 8(1)(j) is not absolute. The Public Information Officer or the Appellate Authority is vested with discretion to order disclosure if satisfied that larger public interest warrants it. Thus, the statute contemplates a case-specific evaluation rather than a blanket prohibition.



12.12. I have considered the submissions advanced by both sides on this point and have perused the relevant statutory provisions and the judgments cited.

12.13. At the outset, it is necessary to extract the relevant statutory provisions. Section 8(1)(e) of the Right to Information Act, 2005 reads as follows:

"8(1)(e) information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;"

12.14. Section 8(1)(j) of the RTI Act reads as follows:

"8(1)(j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information: Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person."

12.15. A combined reading of the aforesaid provisions reveals that the legislature has carved out two distinct but overlapping protections: one



relating to information held in a fiduciary relationship under clause (e), and the other relating to personal information under clause (j). Both exemptions are qualified, in that they may be overridden where a larger public interest warrants disclosure. Neither exemption is absolute in character.

12.16. Dealing first with the question whether income tax returns constitute "personal information" under Section 8(1)(j), the position stands authoritatively settled by the decision of the Hon'ble Supreme Court in **Girish Ramchandra Deshpande** in paragraph 14 of the said judgment, the Hon'ble Supreme Court has categorically held:

14. The details disclosed by a person in his income tax returns are personal information which stand exempted from disclosure under clause (i) of Section 8(1) of the RTI Act, unless involves a larger public interest and the Central Public Information Officer or the State Public Information Officer or the Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information."

12.17. This pronouncement of the Hon'ble Supreme Court is binding on all courts and tribunals in India and admits of no ambiguity. Income tax



returns, by their very nature, contain intimate details of an individual's financial affairs, sources of income, deductions claimed, investments made, and tax liabilities discharged. Such information is quintessentially personal in character. The filing of such returns is a statutory compulsion under the Income-tax Act, 1961, and the assessee furnishes such details with a reasonable expectation that the same will be used solely for the purposes of tax administration and will not be disclosed to third parties without lawful authority.

- 12.18. The decision of the Hon'ble Supreme Court in **Aditya Bandopadhyay**, reinforces this position. In paragraph 66 thereof, the Hon'ble Supreme Court observed that while the RTI Act is a powerful instrument to fight corruption and bring transparency, equal importance and emphasis are given to other public interests such as "confidentiality of sensitive information, fidelity and fiduciary relationships, efficient operation of Governments, etc." This observation underscores the legislative intent that the RTI Act does not contemplate unrestricted access to all information held by



public authorities. The exemptions under Section 8 are not mere procedural hurdles but reflect substantive policy choices made by Parliament to protect competing interests.

12.19. The decision of the Hon'ble Supreme Court in **Subhash Chandra Agarwal**, is also instructive. While the said judgment primarily dealt with the question of disclosure of asset declarations of Judges, the Constitution Bench of the Hon'ble Supreme Court extensively analysed the scope of Section 8(1)(j) in the context of the right to privacy. In paragraph 251, the Hon'ble Supreme Court recognised that in interpreting the statutory scheme of the RTI Act, the constitutional right to know and the constitutional right to privacy of citizens are both implicated. The Hon'ble Supreme Court held that the question of disclosure must be determined by analysing the scheme of the RTI Act, the role of the exemptions under Section 8, and the interface between the statutory rights and duties under Section 8(1)(j) and the constitutional rights under Part III of the Constitution.



12.20. The decision in **Shailesh Gandhi** is also apposite. The Hon'ble Bombay High Court, in paragraph 25, rejected the contention that the proviso to Section 8(1)(j) could be so widely interpreted as to override the main exemption provision. The Court held that the exemptions under clause (j) of sub-section (1) of Section 8 are substantive protections that must be given full effect. Personal information, particularly financial information such as income tax returns, remains protected unless the statutory requirement of larger public interest is clearly satisfied.

12.21. The decision of the Hon'ble Bombay High Court, Aurangabad Bench, in **Adarsh**, is also relevant. The Court examined the scope and interplay of Sections 8 and 11 of the RTI Act and held that where personal information is sought, the procedure under Section 11 of the RTI Act is mandatory. In respect of GST returns, which are analogous to income tax returns, the Court held that the exemption under Section 8(1)(j) operates as a bar to disclosure in the absence of a larger public interest. The Court specifically noted that Section 158(1) of the GST Act



prohibits giving information of GST returns except as provided in sub-section (3).

12.22. Turning now to Section 8(1)(e) and the question of fiduciary relationship, the concept of "fiduciary relationship" under the RTI Act has been the subject of considerable judicial analysis. The expression, in the context of Section 8(1)(e), has been interpreted to mean a relationship founded on trust and confidence, wherein one party holds information on behalf of another with an obligation of confidentiality.

12.23. In **Subhash Chandra Agarwal's** case, the Hon'ble Supreme Court examined whether the Chief Justice of India held asset declarations of Judges in a fiduciary capacity. The Court analysed the nature of the relationship and the circumstances under which information was furnished. While the Hon'ble Supreme Court did not accept that a fiduciary relationship existed in that specific context between the Chief Justice and the Judges, the Court recognised that the concept of a fiduciary relationship is fact-dependent and must be assessed in each case.



12.24. The decision of the Hon'ble Gujarat High Court in **Rajendra Vasantlal Shah** relied upon by learned counsel for Respondent No.1, must be understood in its proper context. In that case, the information sought related to the accounts of a religious charitable trust, which was subject to statutory audit and regulation under the Bombay Public Trust Act. The Court held that the filing of income tax returns by such a trust could not be treated as constituting a fiduciary relationship. However, the said judgment dealt with a public charitable trust, not with the income tax returns of a private individual. The distinction is material. A public trust, by its very nature, carries public accountability, and its financial affairs are subject to statutory scrutiny. The position of a private individual who files income tax returns in compliance with the Income-tax Act stands on an entirely different footing.

12.25. I'am therefore of the view that the relationship between the Income Tax Department and an individual assessee does partake of the nature of a fiduciary relationship to the extent that the assessee furnishes detailed personal financial



information under statutory compulsion with a reasonable expectation that the same will be utilised solely for the purposes of tax administration. The Department receives and retains such information in a position of trust. However, this Court recognises that the characterisation of this relationship as "fiduciary" in the strict legal sense has not been conclusively settled by the Hon'ble Supreme Court. The decision in **Subhash Chandra Agarwal's case** shows that the concept of fiduciary relationship under Section 8(1)(e) is to be applied with circumspection and on a case-by-case basis.

12.26. Be that as it may, even if the relationship between the Department and the assessee is not characterised as strictly fiduciary, it is beyond any doubt that income tax returns constitute "personal information" within the meaning of Section 8(1)(j) of the RTI Act. This is the authoritative pronouncement of the Hon'ble Supreme Court in **Girish Ramchandra Deshpande** and this Court is bound by the same. The fact that such information is personal in nature does not, however, mean



that it can never be disclosed. The exemption under Section 8(1)(j) is qualified by the condition that disclosure may be ordered where the competent authority is satisfied that a larger public interest warrants it. The question whether such a larger public interest exists in the present case is dealt with under Point (iii) below.

12.27. I answer point No. (i) by holding that the Income tax returns, assessment particulars and related financial details of an assessee do constitute "personal information" within the meaning of Section 8(1)(j) of the Right to Information Act, 2005, as authoritatively held by the Hon'ble Supreme Court in **Girish Ramchandra Deshpande**. The exemption, however, is qualified and not absolute; it may be overridden where a larger public interest warrants disclosure. As regards Section 8(1)(e), while the relationship between the Income Tax Department and an individual assessee partakes of the nature of a fiduciary relationship to a considerable extent, it is not necessary to render a conclusive finding on this point, inasmuch as the protection under Section



8(1)(j) is sufficiently broad to encompass the information sought in the present case.

13. **Answer to Point No. (ii): Whether the husband of Respondent No.1 qualifies as a "third party" within the meaning of Section 2(n) of the RTI Act in the context of the RTI application filed by his spouse, and whether the matrimonial relationship has any legal bearing on that characterisation?**

13.1. Sri Y.V. Raviraj, learned counsel for the Petitioner, submits that the husband, being an assessee under the Income-tax regime, squarely answers the description of a "third party" within the meaning of Section 2(n) of the RTI Act, which defines "third party" to mean a person other than the citizen making the request for information. Since the applicant is Respondent No.1 and the information sought pertains to her husband, the husband must necessarily be treated as a third party for the purposes of the Act. It is further contended that the mere fact that the applicant is the spouse of the assessee does not dilute the confidentiality attached to income tax returns.

13.2. Sri Kemparaju, learned counsel for Respondent No.1, submits that Respondent No.1 is the



legally wedded wife of Sri Zafar Ali. In that view of the matter, it is contended that the husband cannot be treated as a "third party" vis-a-vis his wife in a strict or adversarial sense, particularly when the information sought pertains to issues directly impacting her legal rights. The relationship between the parties, being matrimonial, carries with it reciprocal obligations, including financial disclosure in appropriate proceedings.

- 13.3. In support of this contention, learned counsel relies upon the decision of the Hon'ble Delhi High Court in **Kusum Sharma**, wherein comprehensive directions were issued mandating both parties in matrimonial proceedings to file detailed affidavits of their assets, income, expenditure, liabilities and standard of living, along with supporting documentary evidence including income tax returns, bank statements, audited accounts and related financial records.
- 13.4. Reliance is also placed on the decision of the Hon'ble Madhya Pradesh High Court in **Smt. Sunita Jain**, where the Court observed that in



considering the exemption under Section 8(1)(j), the matrimonial relationship between the parties could not be ignored. The Court held that a wife is entitled to know the remuneration earned by her husband and distinguished the decision in **Girish Ramchandra Deshpande** on the ground that the facts were materially different in a matrimonial context.

- 13.5. I have considered the rival submissions with care. At the outset, it is necessary to extract the statutory definition of "third party" under the RTI Act. Section 2(n) reads as follows:

"2(n) 'third party' means a person other than the citizen making a request for information and includes a public authority;"

- 13.6. The statutory definition is plain and unambiguous. A "third party" means any person other than the citizen making the request. The definition does not carve out any exception for spouses, family members, or persons standing in any particular relationship with the applicant. The language is comprehensive and admits of no qualification based on personal or familial relationship.



- 13.7. In the present case, the RTI application was filed by Respondent No.1, namely Smt. Gulsanober Bano Zafar Ali Ansari. The information sought pertains to the income tax returns of her husband, Sri Zafar Ali Ansari. Since the husband is a person other than the citizen making the request, he squarely falls within the definition of "third party" under Section 2(n). The statutory text leaves no room for a different interpretation.
- 13.8. The submission of learned counsel for Respondent No.1 that the husband should not be treated as a "third party" vis-a-vis his wife is an argument that has emotional appeal but finds no support in the statutory language. The legislature, while enacting the RTI Act, could have excluded spouses or certain categories of family members from the definition of "third party" but chose not to do so. This Court cannot read into the statute a limitation that the legislature did not enact.
- 13.9. That said, while the husband is undoubtedly a "third party" within the meaning of Section 2(n), the consequence of such characterisation



is not that the information can never be disclosed. The characterisation as a "third party" triggers the procedural requirements under Section 11 of the RTI Act, which mandates that the Public Information Officer shall, before disclosing third-party information, issue notice to the concerned third party and consider any submission or objection made by that party. The procedure under Section 11 is mandatory, as held in **Adarsh**.

13.10. The question whether the matrimonial relationship has any legal bearing on the characterisation as a "third party" must be answered in the negative insofar as the definitional aspect is concerned. The definition under Section 2(n) does not admit of any qualification. However, the matrimonial relationship may have a bearing on a different question altogether, namely, whether the disclosure is warranted in the larger public interest under Section 8(1)(j).

13.11. The relationship between the parties and the context in which the information is sought may be relevant factors in assessing whether the



larger public interest test is satisfied. This aspect is addressed under Point (iii).

13.12. The decision of the Hon'ble Delhi High Court in **Kusum Sharma**, relied upon by learned counsel for Respondent No.1, does not advance the case on the specific question of "third party" characterisation. That decision concerned the power of the matrimonial court to direct parties to file affidavits of assets and income. The directions issued therein were in the exercise of the court's jurisdiction in matrimonial proceedings, not in the context of an RTI application. The judgment recognises the duty of spouses to disclose financial information in matrimonial proceedings, but it does not deal with the question, whether a spouse ceases to be a "third party" under the RTI Act.

13.13. Similarly, the decision of the Hon'ble Madhya Pradesh High Court in **Smt. Sunita Jain**, while recognising the entitlement of a wife to know the remuneration of her husband, distinguished **Girish Ramchandra Deshpande** on the facts. The said decision did not hold that a spouse is



not a "third party" under Section 2(n). Rather, it held that the exemption under Section 8(1)(j) must be applied contextually and that in a matrimonial context, the balance may tilt in favour of disclosure. This is a separate question from the definitional one under consideration.

13.14. I answer Point No.(ii) by holding that the husband of Respondent No.1 does qualify as a "third party" within the meaning of Section 2(n) of the RTI Act. The statutory definition is unambiguous and does not admit of any exception based on matrimonial or familial relationship. However, while the characterisation as a "third party" triggers the procedural requirements under Section 11 of the RTI Act, the matrimonial relationship may have a bearing on the assessment of whether larger public interest warrants disclosure under Section 8(1)(j). The marital relationship does not alter the statutory characterisation but may be a relevant factor in the overall evaluation of the competing interests.

14. **Answer to Point No. (iii): Whether the disclosure sought by Respondent No.1, in**



connection with her claim for maintenance in pending matrimonial proceedings, satisfies the test of "larger public interest" so as to override the exemptions under Section 8 of the RTI Act?

- 14.1. Sri Y.V. Raviraj, learned counsel for the Petitioner, contends that the disclosure sought does not satisfy the test of "larger public interest" within the meaning of Section 8(1)(j) of the RTI Act. It is submitted that the concept of public interest must transcend individual disputes and relate to transparency in public functioning or accountability in governance. The request emanates from a private matrimonial dispute and does not subserve any broader public cause. The right to information is essentially a right to seek information regarding the functioning, actions and decisions of public authorities and public functionaries, and not a mechanism to access private personal information of individuals which happens to be in the custody of a public authority.
- 14.2. In support of this submission, reliance is placed on **Aditya Bandopadhyay and others**, where the Hon'ble Supreme Court observed that while the RTI Act is intended to promote transparency, equal importance is to be given



to competing interests including confidentiality and fiduciary relationships. Reliance is also placed on **Girish Ramchandra Deshpande**, which held that income tax returns are personal information exempted from disclosure unless larger public interest is established.

14.3. Reliance is further placed on **Shailesh Gandhi**, where the Hon'ble Bombay High Court held that the proviso to Section 8(1)(j) cannot be interpreted so widely as to render the main exemption provision otiose.

14.4. Sri Kemparaju, learned counsel for Respondent No.1, contends that the disclosure sought satisfies the test of larger public interest. It is submitted that Respondent No.1 is the legally wedded wife who has instituted proceedings under Section 12(1) of the Protection of Women from Domestic Violence Act, 2005. The husband, despite carrying on business, has neither disclosed his turnover nor produced relevant income tax returns. The Courts below have rejected her claim for enhanced maintenance on the ground that no documentary evidence of the husband's income



was produced. Thus, denial of the information would effectively defeat her statutory right to seek appropriate maintenance.

14.5. Learned counsel submits that maintenance is not merely a legal right but forms an integral component of the right to live with dignity. Where a deserted wife is deprived of financial support and is unable to substantiate her claim due to non-disclosure of income details by the husband, the balance must tilt in favour of disclosure, as the information becomes intrinsically connected with her right to life and dignity under Article 21 of the Constitution.

14.6. In support of this submission, learned counsel relies upon the decision of the Central Information Commission in **Neena Bhatnagar Mani**, wherein the Commission was dealing with a similar situation where the legally wedded wife had sought disclosure of the income tax returns of her husband for the purpose of enforcing her claim for maintenance. The Commission observed that in circumstances where a deserted wife is deprived of financial support, the balance may



tilt in favour of disclosure, as the information becomes intrinsically connected with her right to life and dignity.

- 14.7. Reliance is also placed on **Rajesh Ramchandra Kidile**, where the Hon'ble Bombay High Court observed that it would have been a different matter had the information been sought by the wife of the Petitioner in order to support her contention in a litigation concerning maintenance. The Court expressly observed that in maintenance litigation, information relating to salary details no longer remains confined to the personal sphere of the husband alone but assumes relevance to both spouses.
- 14.8. Reliance is further placed on **Smt. Sunita Jain**, where the Hon'ble Madhya Pradesh High Court held that a wife is entitled to know the remuneration earned by her husband and that the decision in **Girish Ramchandra Deshpande** was distinguishable in a matrimonial context.
- 14.9. I have given anxious consideration to the rival submissions on this crucial point. The concept



of "larger public interest" under Section 8(1)(j) of the RTI Act is not defined in the statute. However, it has been the subject of judicial interpretation in several authoritative decisions. The expression implies an interest that transcends the private or personal interest of the individual applicant and concerns the welfare, rights or interests of the public or a significant section thereof.

14.10. At the outset, it must be recognised that there are two competing constitutional values at play. On the one hand, there is the right to privacy, which the Hon'ble Supreme Court in ***K.S. Puttaswamy v. Union of India***¹⁴ (a decision not cited by either side but which forms the constitutional backdrop) has recognised as a fundamental right under Article 21. On the other hand, there is the right to life and dignity, also guaranteed under Article 21, which encompasses the right of a spouse to seek appropriate maintenance and the right to live with dignity.

¹⁴ (2017) 10 SCC 1



- 14.11. The facts of the present case reveal that Respondent No.1 is the legally wedded wife of Sri Zafar Ali Ansari. She had filed proceedings under Section 12(1) of the Protection of Women from Domestic Violence Act, 2005. In the said proceedings, her claim for maintenance at Rs.75,000/- per month was rejected and she was awarded only Rs.7,000/- per month, principally because there was no specific evidence regarding the earnings of the husband. The appellate court in Criminal Appeal No.303/2017 also declined enhancement on the same ground. Even this modest amount was not regularly paid, resulting in issuance of recovery-cum-arrest warrants.
- 14.12. The question, therefore, is whether the need to secure just maintenance for a deserted wife constitutes "larger public interest" within the meaning of Section 8(1)(j).
- 14.13. This Court recognises that the obligation to maintain a spouse is not merely a private obligation. It is a statutory obligation recognised under multiple enactments, including Section 125 of the Code of Criminal



Procedure, 1973 (now Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023), Section 18 of the Hindu Adoptions and Maintenance Act, 1956, Section 12 of the Protection of Women from Domestic Violence Act, 2005, and corresponding provisions under personal laws.

14.14. The right of a wife to be maintained by her husband is a statutory right of considerable social importance. Non-payment of maintenance, particularly when the husband possesses means but wilfully avoids payment, is a matter that transcends the individual dispute and engages broader societal concerns, including the prevention of destitution, the protection of the dignity of women, and the enforcement of legal obligations.

14.15. The decision of the Hon'ble Bombay High Court in **Rajesh Ramchandra Kidile**, is particularly instructive. In paragraph 8, the Hon'ble Bombay High Court made a significant observation:

"In a litigation, wherein the issue involved is of maintenance of wife, the information relating to salary details no longer remains confined to the



category of personal information of the husband alone and it assumes the characteristic of personal information concerning both husband and wife, which is available with the husband and hence accessible by the wife."

14.16. This observation recognises an important principle: in the context of maintenance litigation, financial information concerning one spouse ceases to be exclusively personal to that spouse and acquires a shared character, as both spouses have a legitimate interest in such information for the just resolution of their rights and obligations.

14.17. The decision of the Hon'ble Madhya Pradesh High Court in **Smt. Sunita Jain**, also supports this view. The Court expressly held that while dealing with Section 8(1)(j) of the RTI Act, the matrimonial relationship between the parties cannot be lost sight of and that a wife is entitled to know the remuneration earned by her husband. The Court distinguished **Girish Ramchandra Deshpande** on the ground that the facts in a matrimonial context are materially different.

14.18. The decision of the Central Information Commission in **Neena Bhatnagar Mani**, also



considered a factual matrix strikingly similar to the present case. The Commission observed that where a deserted wife is unable to secure maintenance due to non-disclosure of the husband's income, the refusal to provide information becomes life-related and impacts her right to live with dignity. The Commission allowed disclosure in such circumstances.

14.19. However, this Court must sound a note of caution. The concept of "larger public interest" cannot be so expansively interpreted as to encompass every private dispute, however genuine or sympathetic the case of the applicant may be. There is a distinction between a matter of public interest and a matter of individual interest, howsoever legitimate. The RTI Act is a legislation designed to promote transparency and accountability in the working of public authorities. It is not a substitute for discovery or production of documents in civil or criminal proceedings. The mechanisms for securing production of documents in pending proceedings are well established in procedural law.



14.20. In **Girish Ramchandra Deshpande**, the Hon'ble Supreme Court held that the Petitioner "cannot claim those details as a matter of right." While the Court recognised the discretion of the Public Information Officer or the Appellate Authority to order disclosure where larger public interest justifies it, the Court did not hold that maintenance disputes automatically satisfy the larger public interest test.

14.21. In **Subhash Chandra Agarwal's** case, the Hon'ble Supreme Court in paragraph 293 made a nuanced observation about the nature of "public interest", noting that in different contexts, the justification for transparency and disclosure may differ. The Court recognised that public interest must be located in the specific facts and circumstances of each case.

14.22. This Court is of the view that while the need for a deserted wife to obtain financial information of her husband for the purpose of maintenance proceedings is a legitimate and sympathetic concern, it does not, by itself, satisfy the statutory test of "larger public interest" under



Section 8(1)(j) of the RTI Act. The expression "larger public interest" postulates an interest that extends beyond the individual parties to the dispute and concerns the public at large or a significant section thereof. An individual maintenance dispute, however meritorious, remains primarily a private matter between the spouses.

14.23. That said, this Court also recognises that there is a systemic dimension to the problem. Where husbands routinely suppress income to defeat maintenance claims and wives are left without any effective means of establishing the true income, there arises a broader concern about access to justice, gender equity, and the enforcement of legal rights. This systemic dimension may, in appropriate cases, provide the basis for a finding of larger public interest.

14.24. In the present case, however, the Central Information Commission did not undertake any analysis of whether the larger public interest test under Section 8(1)(j) was satisfied. The Commission appears to have directed disclosure by placing reliance upon an earlier order



without applying its mind to the specific question of larger public interest. This, in the view of this Court, is a material infirmity in the impugned order.

14.25. More importantly, as this Court shall deal with in greater detail under Point (v) below, the appropriate mechanism for securing production of income tax returns in pending maintenance proceedings is through the competent court in those proceedings, and not through the RTI Act. The procedural safeguards available in judicial proceedings, including the power of the court to assess relevance, impose conditions, and protect confidentiality, are far more appropriate than the relatively blunt instrument of an RTI application.

14.26. I answer Point no. (iii) by holding that the disclosure sought by Respondent No.1, while connected to a legitimate concern in pending maintenance proceedings, does not, by itself, satisfy the statutory test of "larger public interest" under Section 8(1)(j) of the RTI Act so as to override the exemption protecting personal information. The expression "larger



public interest" postulates an interest that extends beyond the individual dispute. An individual maintenance dispute, however meritorious, primarily remains a private matter between the spouses. The Central Information Commission erred in not applying the larger public interest test to the facts of the case. However, this finding does not leave Respondent No.1 without remedy, as the appropriate mechanism for obtaining such information is through the competent court in the pending maintenance proceedings.

15. **Answer to Point No. (iv): Whether Section 138 of the Income-tax Act, 1961, being a special provision governing disclosure of assessee information, restricts or regulates disclosure under the RTI Act, and how it is to be harmoniously construed with Section 22 of the RTI Act?**

15.1. Sri Y.V. Raviraj, learned counsel for the Petitioner, contends that Section 138 of the Income-tax Act, 1961 is a special statutory provision dealing specifically with disclosure of information relating to assessees. It is submitted that the general provisions of the RTI Act cannot override this special provision by virtue of the well-established principle generalia



specialibus non derogant, namely, that a later general law does not impliedly override an earlier special law unless there is clear inconsistency or irreconcilable repugnancy.

- 15.2. In support of this submission, learned counsel relies upon the decision in **Girish Mittal**, wherein the Hon'ble Delhi High Court placed reliance on the three-Member Bench decision of the Central Information Commission in **G.R. Rawal**. In the said decisions, the interplay between the RTI Act and Section 138 of the Income-tax Act was specifically considered. The reasoning proceeds on the principle that while the RTI Act is a general enactment, Section 138 of the Income-tax Act is a special statutory provision. Relying upon the maxim generalia specialibus non derogant, it was held that the special statutory regime governing confidentiality of tax information would prevail over the general provisions of the RTI Act.
- 15.3. Sri Kemparaju, learned counsel for Respondent No.1, does not directly address the question of Section 138 of the Income-tax Act in his submissions. His submissions are primarily



directed towards the larger public interest test under Section 8(1)(j) and the entitlement of a wife to obtain financial information of her husband in maintenance proceedings. However, the implicit submission is that Section 22 of the RTI Act, which provides that the RTI Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, gives overriding effect to the RTI Act.

- 15.4. I have considered the submissions on this point with care. The relevant statutory provisions must be extracted and analysed. Section 138(1) of the Income-tax Act, 1961 reads as follows:

Disclosure of information respecting assessees.

138. (1)(a) The Board or any other income-tax authority specified by it by a general or special order in this behalf may furnish or cause to be furnished to-

(i) any officer, authority or body performing any functions under any law relating to the imposition of any tax, duty or cess, or to dealings in foreign exchange as defined in section-2(d) of the Foreign Exchange Regulation Act, 1947 (7 of 1947) or

(ii) such officer, authority or body performing functions under any other law as the Central Government may, if in its opinion it is necessary so to



do in the public interest, specify by notification in the Official Gazette in this behalf,

any such information received or obtained by any income-tax authority in the performance of his functions under this Act], as may, in the opinion of the Board or other income-tax authority, be necessary for the purpose of enabling the officer, authority or body to perform his or its functions under that law.

(b) Where a person makes an application to the Chief Commissioner or Commissioner in the prescribed form for any information relating to any assessee [received or obtained by any income-tax authority in the performance of his functions under this Act], the Chief Commissioner or Commissioner may, if he is satisfied that it is in the public interest so to do, furnish or cause to be furnished the information asked for and his decision in this behalf shall be final and shall not be called in question in any court of law.

(2) Notwithstanding anything contained in sub-section (1) or any other law for the time being in force, the Central Government may, having regard to the practices and usages customary or any other relevant factors, by order notified in the Official Gazette, direct that no information or document shall be furnished or produced by a public servant in respect of such matters relating to such class of assessee or except to such authorities as may be specified in the order

15.5. Section 22 of the RTI Act reads as follows:

Section 22. Act to have overriding effect.

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923 (19 of 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.

- 15.6. Section 22 of the RTI Act contains a non obstante clause that gives the RTI Act overriding effect over any other law for the time being in force, to the extent of inconsistency. This is a powerful provision that reflects the legislative intent to give primacy to the right to information.
- 15.7. However, the question is whether Section 22 completely overrides Section 138 of the Income-tax Act, or whether the two provisions must be harmoniously construed.
- 15.8. The decision in **Girish Mittal**, is directly on point. The Hon'ble Delhi High Court, relying on the three-Member Bench decision of the Central Information Commission in **G.R. Rawal**, held that Section 138 of the Income-tax Act, being a special provision dealing with disclosure of assessee information, operates as a self-contained code and cannot be bypassed by invoking the general provisions of the RTI Act. The Court applied the principle expressed in the



Latin maxim generalia specialibus non derogant.

15.9. The principle that a general law does not repeal a special law by implication is well settled. However, this principle must be applied with circumspection where the later general law contains an express non obstante clause. Section 22 of the RTI Act is an express provision giving the RTI Act overriding effect. The question, therefore, is how to reconcile Section 22 of the RTI Act with Section 138 of the Income-tax Act.

15.10. This Court is of the view that the two provisions can be harmoniously construed as follows: Section 22 of the RTI Act gives the Act overriding effect, but the RTI Act itself, through Section 8, provides exemptions from disclosure. The exemptions under Section 8, particularly clauses (e) and (j), already provide sufficient protection for income tax information. Therefore, there is no irreconcilable conflict between Section 22 of the RTI Act and Section 138 of the Income-tax Act. The RTI Act applies to information held by the Income Tax



Department, but the exemptions under Section 8 provide the necessary safeguards against unwarranted disclosure. Section 138 of the Income-tax Act provides an additional layer of regulation governing disclosure of assessee information through specified channels.

15.11. In other words, an RTI application seeking income tax returns is not barred by Section 138 of the Income-tax Act per se, as Section 22 of the RTI Act would override to that extent. However, the information sought is protected by the exemptions under Section 8(1)(j) of the RTI Act, and disclosure can only be ordered upon satisfaction of the larger public interest test. The practical effect of Section 138 is that it reinforces the confidential character of assessee information and supports the conclusion that such information is ordinarily exempt from disclosure under Section 8(1)(j).

15.12. I answer point no. (iv) by holding that Section 138 of the Income-tax Act, 1961, being a special provision governing disclosure of assessee information, does regulate and restrict disclosure of income tax information. While



Section 22 of the RTI Act gives the Act overriding effect, the exemptions under Section 8 of the RTI Act, particularly clauses (e) and (j), provide sufficient protection for income tax information. The two provisions can be harmoniously construed: the RTI Act applies to information held by the Income Tax Department, but the exemptions under Section 8 protect confidential tax information from unwarranted disclosure. Section 138 of the Income-tax Act reinforces the confidential character of assessee information and supports the conclusion that such information is ordinarily exempt from disclosure under Section 8(1)(j), unless the larger public interest test is satisfied.

16. **Answer to Point No. (v): Whether, in the facts of the present case, the appropriate course for Respondent No.1 was to seek production of the income tax returns through the competent matrimonial court, rather than by invoking the provisions of the RTI Act?**

16.1. Sri Y.V. Raviraj, learned counsel for the Petitioner, in rejoinder, submits that the stand of the Income Tax Department has been



misunderstood. It is not the case of the Department that income tax returns can never be produced. The objection is only to the mode by which such information is sought to be obtained. Learned counsel submits that if a competent court, in the course of maintenance or matrimonial proceedings, considers it necessary to summon the income tax returns of the husband, the Department would be bound to comply with such judicial direction. In that scenario, the court would exercise its discretion, evaluate relevance and necessity, and pass appropriate orders for the production of documents. The proper course for Respondent No.1 is to invoke the procedural mechanisms available before the concerned court for summoning documents, rather than resorting to the RTI Act.

- 16.2. Sri Kemparaju, learned counsel for Respondent No.1, submits that Respondent No.1 has no alternative or effective mechanism to establish the true income of her husband except by obtaining copies of the income tax returns filed by him. The income details are within the exclusive knowledge and control of the husband



and the Income Tax Department, and denial of such information would effectively defeat her statutory right to seek appropriate maintenance.

16.3. It is submitted that an application was filed before the concerned Magistrate seeking a direction to the husband to produce his income tax returns, but in the final adjudication, the said aspect was not effectively addressed. The court, observing that there was no specific evidence regarding the earnings of the husband, rejected the claim for enhanced maintenance and awarded only Rs.7,000/- per month. In such circumstances, it is contended that the RTI Act provides the only viable statutory mechanism through which she can access certified records already available with the Income Tax Department.

16.4. I have carefully considered the rival submissions on this pivotal point. This point goes to the heart of the dispute. The question is not merely whether the information can be disclosed, but what is the appropriate legal mechanism for obtaining it.



- 16.5. It is well settled that in proceedings relating to maintenance, whether under Section 125 of the Code of Criminal Procedure, 1973 (now Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023), the Protection of Women from Domestic Violence Act, 2005, or under personal laws, the court has ample power to summon documents, direct production of records, and compel disclosure of financial information. The court adjudicating a maintenance claim has the inherent power, and indeed the duty, to ascertain the true financial capacity of the parties in order to fix just and fair maintenance.
- 16.6. The decision of the Hon'ble Delhi High Court in **Kusum Sharma**, is a comprehensive illustration of the powers available to the matrimonial court. In the said decision, the court issued detailed directions requiring both parties to file affidavits of their assets, income, expenditure, liabilities and standard of living, along with supporting documentary evidence including income tax returns, bank statements, audited accounts, and related financial records. The court also directed the parties to remain present with all original documents relating to



their assets, income and expenditure. This demonstrates that the matrimonial court has the necessary jurisdiction and procedural tools to compel financial disclosure.

16.7. This Court is of the considered view that the RTI Act is not the appropriate mechanism for obtaining income tax returns of a spouse in the context of maintenance proceedings. The following reasons support this conclusion:

16.7.1. First, the RTI Act was enacted to promote transparency and accountability in the working of public authorities. Its primary purpose is to enable citizens to access information regarding the functioning of the Government and its instrumentalities. It was not designed as a tool for obtaining evidence in private litigation between parties. While the definition of "information" under Section 2(f) is broad enough to encompass income tax returns, the purpose of the Act is directed towards public accountability, not towards facilitating private litigation.



- 16.7.2. Second, the procedural mechanisms available in judicial proceedings provide far more appropriate safeguards than an RTI application. When a court summons documents, it exercises judicial discretion; it assesses relevance and necessity; it can impose conditions on use and disclosure; it can protect confidentiality where required; and it can balance the competing interests of the parties. An RTI application, by contrast, is a relatively blunt instrument that does not permit such nuanced balancing.
- 16.7.3. Third, the courts adjudicating maintenance claims have comprehensive powers to compel disclosure. Under Section 91 of the Code of Criminal Procedure, 1973 (now Section 94 of the Bharatiya Nagarik Suraksha Sanhita, 2023), a court may issue a summons to produce a document or thing. Under Order XVI Rule 6 of the Code of Civil Procedure, 1908, the court may summon any person to produce documents. Under Section 165 of the Indian



Evidence Act, 1872 (now Section 168 of the Bharatiya Sakshya Adhinyam, 2023), the court has the power to put questions and order the production of documents. These provisions vest ample authority in the court to compel the Income Tax Department to produce the returns of an assessee.

16.7.4. Fourth, when a court issues a summons or direction to the Income Tax Department to produce the income tax returns of an assessee, the Department is bound to comply. The submission of learned counsel for the Petitioner in rejoinder that the Department would comply with a judicial direction is noted and accepted. This is also consistent with Section 138 of the Income-tax Act, which permits disclosure of assessee information in specified circumstances, including where required by a court of competent jurisdiction.

16.7.5. Fifth, it is pertinent to note that Respondent No.1 did make an



application before the concerned Magistrate seeking a direction to the husband to produce his income tax returns. However, it appears that this aspect was not effectively addressed in the final adjudication. The appropriate course in such a situation is not to resort to the RTI Act, but to take further steps within the judicial proceedings themselves, including filing applications for summoning documents from the Income Tax Department, seeking directions under the court's inherent powers, or pursuing appellate remedies against orders declining such applications.

- 16.7.6. Sixth, this Court is conscious of the practical difficulties faced by a deserted spouse in establishing the income of the other spouse. The power imbalance in matrimonial disputes, particularly where one spouse controls all financial information, is a recognised problem. However, the solution lies in strengthening the mechanisms available



within the judicial process, not in deploying the RTI Act as a substitute for judicial discovery.

16.8. The decision of the Hon'ble Supreme Court in **Khanapuram Gandaiah**, relied upon by learned counsel for Respondent No.1, while holding that an applicant under the RTI Act can get any information which is already in existence and accessible to the public authority, also recognised the limitations of the RTI Act. The Court held that an applicant cannot use the RTI Act to seek explanations or reasons for decisions. While this specific limitation is not directly applicable here, the broader principle is that the RTI Act has a defined scope and purpose, and cannot be stretched beyond its legislative intent.

16.9. Having said the above, this Court is mindful that the observation of this Court should not be construed as denying Respondent No.1 her legitimate right to obtain relevant financial information for the purpose of her maintenance claim. The right of a wife to seek just and fair maintenance is a valuable legal right, and the



courts must ensure that procedural inadequacies do not defeat substantive entitlements. It is, therefore, open to Respondent No.1 to approach the competent court in the pending maintenance proceedings and seek a direction to the Income Tax Department to produce the income tax returns and related financial records of her husband. Any such application, if made, shall be considered on its own merits by the concerned court.

16.10. I answer Point No.(v) by holding that the appropriate course for Respondent No.1 was to seek production of the income tax returns through the competent matrimonial court, rather than by invoking the provisions of the RTI Act. The RTI Act is not the appropriate mechanism for obtaining income tax returns of a spouse in the context of maintenance proceedings. The courts adjudicating maintenance claims have ample powers to summon documents and compel disclosure of financial information, and the procedural safeguards available in judicial proceedings are far more appropriate than the relatively blunt



instrument of an RTI application. However, Respondent No.1 is at liberty to approach the competent court in the pending maintenance proceedings to seek a direction to the Income Tax Department to produce the income tax returns and related financial records of her husband.

17. Answer to Point No. (vi): Whether the order dated 12.04.2019 passed by the Central Information Commission directing disclosure of the information calls for interference under Article 226 of the Constitution of India?

17.1. Sri Y.V. Raviraj, learned counsel for the Petitioner, submits that the impugned order passed by the Central Information Commission is unsustainable in law. It is contended that the Commission has failed to properly appreciate: (a) the fiduciary relationship between the Income Tax Department and the assessee; (b) the statutory exemptions under Sections 8(1)(e) and 8(1)(j) of the RTI Act; (c) the protection afforded to personal financial information under binding precedents of the Hon'ble Supreme Court; and (d) the overriding effect of the special mechanism under Section 138 of the Income-tax Act, 1961. On these



grounds, it is submitted that the order deserves to be set aside and the RTI application filed by Respondent No.1 deserves to be rejected.

17.2. Sri Kemparaju, learned counsel for Respondent No.1, contends that the Central Information Commission, having considered the peculiar facts and the nature of the request, rightly allowed the appeal and directed disclosure. It is submitted that the order of the Central Information Commission is reasoned, justified, and does not warrant interference under Article 226 of the Constitution. It is further submitted that the writ petition deserves to be dismissed.

17.3. I have considered the submissions of both sides and have independently examined the impugned order of the Central Information Commission dated 12.04.2019.

17.4. The scope of judicial review under Article 226 of the Constitution in respect of orders passed by the Central Information Commission is well settled. The High Court exercises writ jurisdiction not as a court of appeal but as a court of limited judicial review. Interference with the order of the Commission is warranted



where the Commission has: (a) acted without jurisdiction or in excess of jurisdiction; (b) failed to exercise jurisdiction vested in it; (c) committed an error of law apparent on the face of the record; (d) violated principles of natural justice; or (e) arrived at a decision that no reasonable body could have arrived at on the material before it.

17.5. Having examined the impugned order, this Court finds that the Central Information Commission erred in the following respects:

17.5.1. First, the Commission appears to have directed disclosure by placing reliance upon an earlier order passed in WP No. 18778/2017 (Smt. Jammalu Padma Manjari v. CPIO and DCIT) without undertaking an independent analysis of the facts of the present case. Reliance on an earlier order, without applying the mind to the specific circumstances of the case at hand, does not constitute a reasoned decision.

17.5.2. Second, the Commission failed to apply the larger public interest test mandated



by Section 8(1)(j) of the RTI Act. The exemption under Section 8(1)(j) is qualified by the condition that disclosure may be ordered only where the competent authority is satisfied that larger public interest warrants it. This satisfaction must be recorded and must be based on an assessment of the facts. The impugned order does not contain any analysis of whether the request of Respondent No.1 satisfies the larger public interest test.

17.5.3. Third, the Commission failed to give due weight to the authoritative pronouncement of the Hon'ble Supreme Court in **Girish Ramchandra Deshpande**, which categorically held that income tax returns are personal information exempt from disclosure under Section 8(1)(j), unless a larger public interest is established. The Commission was bound by this pronouncement and ought to have addressed why, notwithstanding the said



pronouncement, disclosure was being directed.

17.5.4. Fourth, as discussed under Point (v) above, the appropriate mechanism for obtaining income tax returns in the context of maintenance proceedings is through the competent court, not through the RTI Act. The Commission, by directing disclosure through the RTI route, bypassed the judicial process and the safeguards embedded therein.

17.6. For the foregoing reasons, this Court is of the considered view that the impugned order dated 12.04.2019 passed by the Central Information Commission suffers from errors of law apparent on the face of the record and calls for interference under Article 226 of the Constitution.

17.7. However, while setting aside the impugned order, this Court is also mindful of the legitimate concern of Respondent No.1 in obtaining financial information of her husband for the purpose of her maintenance claim. This Court does not wish to leave Respondent No.1



without any remedy. Accordingly, while setting aside the impugned order, this Court grants liberty to Respondent No.1 to approach the competent court in the pending maintenance proceedings and seek appropriate directions for production of the income tax returns and related financial records of her husband by the Income Tax Department. Any such application shall be considered on its own merits by the concerned court.

- 17.8. I answer point no. (vi) by holding that the order dated 12.04.2019 passed by the Central Information Commission directing disclosure of the income tax returns and related information of the husband of Respondent No.1 calls for interference under Article 226 of the Constitution. The Commission erred in: (a) directing disclosure without applying the larger public interest test under Section 8(1)(j); (b) failing to follow the binding pronouncement of the Hon'ble Supreme Court in **Girish Ramchandra Deshpande**; and (c) relying on an earlier order without independent application of mind. The impugned order is accordingly liable to be set aside. However, Respondent



No.1 is granted liberty to approach the competent court in the pending maintenance proceedings to seek appropriate directions for the production of income tax returns and related financial records.

18. General Directions and Guidelines

18.1. This Court cannot be unmindful of the practical difficulties encountered in a large number of proceedings relating to maintenance and alimony instituted under the Protection of Women from Domestic Violence Act, Section 125 of the Code of Criminal Procedure, the Hindu Marriage Act, and allied statutes. Determination of maintenance necessarily depends upon a fair and accurate assessment of the income, assets, liabilities and overall financial capacity of the parties. Delay is frequently occasioned because one spouse is unable to place on record reliable documentary material establishing the true income of the other spouse.

18.2. Such documents are required not only to substantiate a claim for maintenance, but equally to enable the opposite spouse to rebut,



negate, or contextualise the claim, and to assist the court in arriving at a proper and just calculation of maintenance or permanent alimony. In the absence of authentic financial records, the adjudicating court is compelled to proceed on conjecture or incomplete disclosures, which undermines the objective of rendering equitable relief.

18.3. Having held that income tax returns and related financial particulars cannot ordinarily be accessed through an application under the Right to Information Act, 2005, and that the appropriate course for a spouse seeking such material is to approach the competent court for necessary directions to the Income Tax Department, this Court is of the considered opinion that structured procedural safeguards are required.

18.4. Until an appropriate legislative framework is formulated, it is necessary to lay down guiding principles to ensure that:

18.4.1. genuine claims for maintenance/alimony are not defeated for want of documentary proof;



18.4.2. exaggerated or unfounded claims can be effectively scrutinised; and

18.4.3. courts are equipped with reliable financial data to determine just and reasonable maintenance or alimony.

18.5. Accordingly, this Court has framed guidelines regulating the procedure to be followed by matrimonial courts when applications are made seeking production of income tax returns and related financial records from the Income Tax Department. The said guidelines are annexed to and shall form an integral part of this judgment. They are set out separately only to facilitate clarity, uniform implementation, and ease of dissemination across all subordinate courts within the jurisdiction of this Court.

19. Answer to Point No. (vii): What order?

19.1. In view of the findings recorded on Points (i) to (vi) above, this Court passes the following



ORDER

- i. The writ petition is ***partly allowed*** in the following terms:
- ii. The order dated 12.04.2019 bearing File No.CIC/CCITB/A/2017/180340-BJ passed by the Central Information Commission (Respondent No.2) is hereby set aside.
- iii. It is declared that income tax returns, assessment particulars and related financial details of an assessee constitute personal information within the meaning of Section 8(1)(j) of the Right to Information Act, 2005, and are exempt from disclosure under the said provision unless the competent authority is satisfied that larger public interest warrants disclosure.
- iv. It is held that in the facts and circumstances of the present case, the disclosure sought by Respondent No.1 through the RTI route does not satisfy the test of larger public interest so as to override the statutory exemption under Section 8(1)(j) of the RTI Act.



- v. It is further held that the appropriate mechanism for obtaining income tax returns and financial records of a spouse in the context of maintenance proceedings is through the competent court adjudicating the maintenance claim, and not through the provisions of the RTI Act.
- vi. Liberty is granted to Respondent No.1 to approach the competent court in the pending maintenance proceedings, namely Criminal Appeal No.303/2017 or any other proceedings as may be pending, and file an appropriate application seeking directions to the Income Tax Department to produce the income tax returns and related financial records of her husband, Sri Zafar Ali Ansari, for the Assessment Years 2012-2017 or such other period as may be relevant.
- vii. In the event Respondent No.1 files such an application before the competent court, the said court shall consider the same on its own merits, in accordance with law, and pass appropriate orders expeditiously, preferably within a period



of four weeks from the date of filing of such application.

- viii. The Income Tax Department is directed to comply with any direction that may be issued by the competent court for the production of the income tax returns and related financial records of the assessee, in accordance with the provisions of Section 138 of the Income-tax Act, 1961 and other applicable laws.
- ix. There shall be no order as to costs.

**SD/-
(SURAJ GOVINDARAJ)
JUDGE**

KTY



GUIDELINES
FOR
COURTS AND THE INCOME TAX DEPARTMENT

1. Background and Genesis

- 1.1. In the judgment delivered in Writ Petition No.34625 of 2019 (GM-RES) titled ***Income Tax Officer and CPIO v. Smt. Gulsanober Bano Zafar Ali Ansari and another***, this Court was called upon to consider whether the income tax returns and financial records of an assessee could be disclosed to his spouse under the Right to Information Act, 2005.
- 1.2. The Court held that while income tax returns constitute "personal information" under Section 8(1)(j) of the RTI Act and are exempt from disclosure under the said provision, the appropriate mechanism for a spouse to obtain such financial information is through the competent Court adjudicating maintenance proceedings, and not through the RTI Act.
- 1.3. During the course of the judgment, this Court observed that while the right of a wife to seek just and fair maintenance is a valuable legal



right, procedural inadequacies must not defeat substantive entitlements. It was further observed that the courts adjudicating maintenance claims have ample powers to summon documents and compel disclosure of financial information from the Income Tax Department, and that the procedural safeguards available in judicial proceedings are far more appropriate than the relatively blunt instrument of an RTI application.

1.4. In order to ensure uniformity, clarity and effective implementation of the principles laid down in the said judgment, and to prevent a situation where spouses are left without any effective remedy for obtaining financial information necessary for the just adjudication of maintenance claims, this Court considers it necessary to issue comprehensive guidelines for the courts and the Income Tax Department.

2. **Scope and Applicability:** These guidelines shall apply to:

2.1. All Magistrate Courts, Family Courts, Sessions Courts and Appellate Courts within the State of Karnataka adjudicating proceedings relating to



maintenance and or Alimony under any law, including but not limited to Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (earlier Section 125 of the Code of Criminal Procedure, 1973), Section 12 of the Protection of Women from Domestic Violence Act, 2005, Section 18 of the Hindu Adoptions and Maintenance Act, 1956, Section 24 and Section 25 of the Hindu Marriage Act, 1955, and corresponding provisions under other personal laws.

- 2.2. All officers and authorities of the Income Tax Department, including but not limited to the Central Processing Centre, Centralised Processing Centre, Assessing Officers, Income Tax Officers, Chief Public Information Officers, Commissioner(s) and Chief Commissioner(s) of Income Tax, within the jurisdiction of this Court.
- 2.3. All proceedings in which one spouse seeks production, discovery, disclosure or inspection of the income tax returns, assessment records, financial statements, bank details or any other financial records of the other spouse which are



in the custody or control of the Income Tax Department.

- 2.4. All proceedings where similar financial records are sought from other authorities or institutions holding financial information of a spouse, mutatis mutandis, to the extent applicable.

3. Object and Purpose: The object of these guidelines is four-fold:

- 3.1. **First**, to provide a clear, efficient and standardised procedural mechanism for spouses to obtain income tax returns and financial records of the other spouse through the competent Court, thereby ensuring that no spouse is left without an effective remedy;
- 3.2. **Second**, to ensure that the Income Tax Department and its officers comply promptly and effectively with judicial directions for production of such records, while maintaining appropriate confidentiality safeguards;
- 3.3. **Third**, to balance the competing interests of privacy of the assessee, the right of the spouse to seek just maintenance, and the need for effective judicial administration, and



3.4. **Fourth**, to eliminate procedural delays and impediments that often frustrate the just resolution of maintenance claims due to the non-availability of reliable financial information.

4. Definitions and Interpretation: In these guidelines, unless the context otherwise requires:

4.1. **"Applicant Spouse"** means the spouse who applies to the competent Court for production or disclosure of income tax returns and financial records of the other spouse;

4.2. **"Assessee Spouse"** means the spouse whose income tax returns and financial records are sought to be produced or disclosed;

4.3. **"Competent Court"** means the Court before which maintenance proceedings are pending, or the Court having jurisdiction to entertain a claim for maintenance;

4.4. **"Designated Officer"** means the officer of the Income Tax Department to whom the Court's direction for production of documents is addressed or who is designated by the Department to comply with such directions;



- 4.5. "**Financial Records**" includes income tax returns, assessment orders, Form 16/16A, Form 26AS/Annual Information Statement (AIS), Tax Deducted at Source (TDS) certificates, Profit and Loss accounts, Balance Sheets, capital gains statements, bank account details as reflected in the returns, and any other document or record forming part of the assessment file of the assessee maintained by the Income Tax Department;
- 4.6. "**Maintenance Proceedings**" means any proceedings in which one spouse claims maintenance, alimony, financial support, or interim or permanent settlement from the other spouse, under any law for the time being in force;
- 4.7. "**Production Order**" means the order or direction issued by the competent Court directing the Income Tax Department to produce the Financial Records of the Assessee Spouse;
- 4.8. "**RTI Act**" means the Right to Information Act, 2005;



4.9. "**Income-tax Act**" means the Income-tax Act, 1961.

5. Relevant Statutory Provisions: The following statutory provisions form the foundation of these guidelines:

5.1. Powers of Courts to Summon Documents

5.1.1. **Section 94 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (formerly Section 91 of the Code of Criminal Procedure, 1973):** empowers any court or officer in charge of a police station to issue a summons to any person to produce a document or other thing in his possession which is considered necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under the Code.

5.1.2. **Order XVI Rule 6 of the Code of Civil Procedure, 1908:** provides for the issuance of summons to persons whose attendance is required to give evidence or to produce documents.



- 5.1.3. **Section 168 of the Bharatiya Sakshya Adhinyam, 2023(Formerly Section 165 of the Indian Evidence Act, 1872):** confers upon the Judge the power to put questions to a witness or order the production of any document or thing in whatever form, at any stage of any suit, inquiry or proceeding.
- 5.1.4. **Section 24 of the Hindu Marriage Act, 1955:** empowers the Court to order either spouse to pay maintenance pendente lite and expenses of proceedings to the other spouse. The Court has an implied power to direct disclosure of financial particulars for the purpose of determining such maintenance.
- 5.1.5. **Section 20(1)(d) of the Protection of Women from Domestic Violence Act, 2005:** empowers the Magistrate to direct the respondent to pay monetary relief, including maintenance. The power to fix just maintenance necessarily



implies the power to ascertain the income and assets of the parties.

5.2. Provisions Governing Disclosure of Income Tax Information

- 5.2.1. **Section 138 of the Income-tax Act, 1961:** regulates disclosure of information respecting assesseees. It permits the Board or specified income-tax authority to furnish information to specified officers, authorities or bodies performing functions under any law, subject to the conditions laid down therein.
- 5.2.2. **Section 138(1)(b):** permits disclosure to such officer, authority or body performing functions under any other law as the Central Government may specify by notification in the Official Gazette, if in its opinion it is necessary so to do in the public interest.
- 5.2.3. **Section 8(1)(j) of the RTI Act:** exempts from disclosure information which relates to personal information, the disclosure of which has no relationship to



any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual, unless the competent authority is satisfied that the larger public interest justifies such disclosure.

6. Duty to Enquire into Financial Capacity

- 6.1. In every proceeding relating to alimony and/or maintenance, the competent Court shall, at the earliest opportunity and preferably at the first effective hearing, enquire into the financial capacity of both parties and specifically ascertain whether either party wishes to seek production of financial records from the Income Tax Department or any other authority.
- 6.2. The Court shall not determine maintenance based merely on oral assertions or unverified claims regarding income. Where the income of either party is disputed, the Court shall suo motu consider invoking its powers to summon documentary evidence, including income tax returns and related financial records.



7. Procedure upon Application by a Spouse: Where the Applicant Spouse files an application seeking production of income tax returns and financial records of the Assessee Spouse from the Income Tax Department, the Court shall adopt the following procedure:

7.1. On an application being filed, notice of the application shall be served on the Assessee Spouse, affording an opportunity to file objections within a period of seven days from the date of service.

7.2. The Court shall hear the application, consider any objections of the Assessee Spouse, and pass a reasoned order within a period of fourteen days from the date of filing of the application.

7.3. While considering the application, the Court shall satisfy itself on the following parameters:

7.3.1. That the information sought is relevant to the determination of the maintenance claim;

7.3.2. That the Applicant Spouse has been unable to obtain the information by other



reasonable means, including through voluntary disclosure by the Assessee Spouse;

7.3.3. That the scope of the information sought is proportionate to the needs of the case and is not unduly wide or oppressive;

7.3.4. That the period for which the records are sought is relevant to the maintenance proceedings; and

7.3.5. That appropriate safeguards are in place to protect the confidentiality of the information and prevent misuse.

7.4. Upon being satisfied, the Court shall issue a Production Order in the prescribed format addressed to the Designated Officer of the Income Tax Department.

7.5. The Production Order shall clearly specify the assessment years for which records are sought, the specific documents required, the name and PAN of the Assessee Spouse, and the date by which compliance is required.



7.6. The Production Order shall contain a direction that the records be produced in a sealed cover, to be opened only by the Court.

7.7. A copy of the Production Order shall be served on the Assessee Spouse.

8. Conditions and Safeguards to be Imposed by Courts: While issuing a Production Order, the Court shall impose the following conditions.

8.1. **Sealed Cover:** The Income Tax Department shall produce photocopies of the records in a sealed cover addressed to the Court, certifying that they are the true copies of the originals maintained by the Income Tax Department. If printed from a database, the necessary certification under the relevant laws shall accompany such documents. The records shall not be directly furnished to the Applicant Spouse.

8.2. **Inspection by Parties:** Upon receipt, the Court shall open the sealed cover in the presence of both parties or their advocates and afford inspection. The Assessee Spouse shall be given an opportunity to identify any information



that is not relevant to the maintenance proceedings and which, in the opinion of the Assessee Spouse, ought not to be disclosed.

- 8.3. **Selective Disclosure:** The Court shall, after hearing both parties, determine which portions of the records are relevant to the maintenance proceedings and shall disclose only such relevant portions to the Applicant Spouse. Irrelevant information, particularly information relating to third parties whose financial details may appear in the returns, shall be redacted or withheld.
- 8.4. **Undertaking:** Before any disclosure is made, the Court shall obtain an undertaking from the Applicant Spouse (and his or her advocate) that the information obtained shall be used solely for the purpose of the pending maintenance proceedings and shall not be disclosed to any third party or used for any other purpose whatsoever.
- 8.5. **Prohibition on Copying:** The Court may, in its discretion, direct that the Applicant Spouse shall be entitled to inspect and take notes of the relevant financial records, but shall not be



permitted to retain copies, unless the Court considers it necessary for the fair conduct of the proceedings. Where copies are permitted, the Court shall impose appropriate conditions.

8.6. Return of Records: Upon conclusion of the proceedings, or upon the records ceasing to be required, the Court shall direct that all records furnished by the Income Tax Department be returned to the Department or destroyed (if photocopy has been produced).

9. Suo Motu Powers of the Court: The competent Court may, even in the absence of a formal application by the Applicant Spouse, exercise its suo motu powers to summon income tax returns and financial records from the Income Tax Department where the Court considers that the determination of a fair and just maintenance is not possible without such records. In such cases, the Court shall record reasons for exercising the suo motu power and shall afford an opportunity to the Assessee Spouse to be heard before issuing the Production Order.

10. Directions for Financial Disclosure by Both Spouses



10.1. As Directed by the Hon'ble Supreme Court in ***Rajneesh Vs Neha and Another***¹⁵ the competent Court may, at the earliest opportunity, direct both spouses to file affidavits of their respective assets, income, expenditure, liabilities, and standard of living, along with supporting documentary evidence including income tax returns, bank statements, salary certificates, audited accounts, and related financial records, as may be applicable.

10.2. Where the Assessee Spouse fails to comply with the aforesaid direction or furnishes incomplete or misleading information, the Court shall be entitled to draw an adverse inference against the Assessee Spouse and to proceed to summon the records directly from the Income Tax Department.

11. Obligation to Comply with Judicial Directions:

Upon receipt of a Production Order from a competent court, the Designated Officer of the Income Tax Department shall ensure prompt and complete compliance with the same. The judicial direction shall be treated as having been issued in the exercise of the Court's statutory power to summon documents,

¹⁵ (2021 (2) SCC 324)



and non-compliance shall be amenable for appropriate proceedings.

12. Designation of Nodal Officers: The Principal Chief Commissioner of Income Tax/Chief Commissioner of Income Tax having jurisdiction shall designate a Nodal Officer, not below the rank of Income Tax Officer, at each Principal Commissioner/Commissioner charge, to receive, process and comply with Production Orders issued by courts in maintenance proceedings. The name, designation, office address and contact details of the Nodal Officer shall be communicated to all courts within the jurisdiction and shall be updated annually.

13. Procedure for Compliance: Upon receipt of a Production Order, the Designated Officer/Nodal Officer shall follow the procedure set out below:

13.1. Acknowledge receipt of the Production Order within three working days from the date of receipt.

13.2. Retrieve the income tax returns and financial records of the Assessee Spouse for the specified assessment years from the records maintained by the Department, including



electronic records available on the Central Processing Centre system, the Income Tax Business Application (ITBA), the Integrated Taxpayer Data Management System (ITDMS), or any other system as may be in use.

- 13.3. Prepare certified copies of the relevant documents, duly authenticated by the officer under his seal and signature.
- 13.4. Place the certified copies in a sealed cover addressed to the Court, clearly marking the cover with the case number, the name of the Assessee Spouse, and the words "CONFIDENTIAL — TO BE OPENED ONLY BY THE COURT."
- 13.5. Dispatch the sealed cover to the Court through a responsible officer or through registered post / speed post / special messenger, ensuring proof of delivery.
- 13.6. File a compliance report with the Court confirming the furnishing of the records, along with a covering letter listing the documents enclosed.



14. **Timeline for Compliance:** The Income Tax Department shall comply with the Production Order within the following timelines:

Action	Timeline
Acknowledgement of Production Order	3 working days
Retrieval and certification of records	14 working days
Dispatch in a sealed cover to the Court	3 working days after certification
Filing of compliance report	Within 3 working days of dispatch
Total maximum time from receipt to compliance	21 working days (approximately 30 calendar days)



- 15. Records Not Available or Not Maintained:** Where the records sought are not available, either because no return was filed for the specified assessment year, or because the records have been destroyed in accordance with the record retention policy of the Department, or for any other bona fide reason, the Designated Officer shall file an affidavit before the Court, clearly stating which records are not available and the reasons therefor. The Court shall then decide the matter on the basis of the material available and may draw appropriate inferences.
- 16. Objections by the Income Tax Department:** If the Income Tax Department has any objection to complying with the Production Order, whether on the ground of jurisdiction, scope, or any statutory restriction, such objection shall be raised before the Court which issued the Production Order within seven working days of receipt. The Department shall not unilaterally decline to comply. The objection shall be supported by a reasoned application filed by an officer not below the rank of Commissioner of Income Tax. The Court shall hear the objection and pass orders expeditiously.



17. **Handling of RTI Applications by Spouses:** Where a spouse files an application under the RTI Act seeking income tax returns or financial records of the other spouse in connection with maintenance proceedings, the Public Information Officer (CPIO/PIO) of the Income Tax Department shall:
- 17.1. Process the application in accordance with the provisions of the RTI Act, including Sections 8(1)(e), 8(1)(j) and 11 thereof;
 - 17.2. Inform the applicant, in the order disposing of the RTI application, that the appropriate mechanism for obtaining income tax returns in the context of maintenance proceedings is through the competent Court, and not through the RTI Act;
 - 17.3. Provide the applicant with the name, designation and address of the Nodal Officer designated to receive and comply with judicial directions; and
 - 17.4. Where the application discloses that the applicant is a spouse seeking information in connection with maintenance proceedings, specifically advise the applicant to file an



appropriate application before the competent Court.

18. **Powers of Appellate Courts:** Where the competent Court of first instance has declined to issue a Production Order, or where the competent Court has issued a Production Order but the same has not been complied with, the Appellate Court (Sessions Court / District Court as the case may be) shall exercise its revisional or appellate jurisdiction to:

18.1. Examine whether the Court of first instance properly exercised its discretion in declining the Production Order, having regard to the parameters set out above;

18.2. Direct the Court of first instance to issue a Production Order where the refusal was not justified;

18.3. Directly issue a Production Order in the exercise of its appellate or revisional powers where the interests of justice so require; and

18.4. Take appropriate action against the Income Tax Department for non-compliance with a Production Order, including initiation of contempt proceedings.



19. **Enhancement of Maintenance Pending Appellate Determination:** Where the appellate Court is satisfied that the maintenance awarded by the Court of first instance was inadequate due to the non-availability of financial records of the Assessee Spouse, and where such records are subsequently produced pursuant to a Production Order, the appellate Court shall re-assess the maintenance quantum in light of the additional material and pass appropriate orders, including retrospective enhancement where warranted.
20. **SAFEGUARDS AND CONDITIONS FOR DISCLOSURE:** The following safeguards shall be mandatory in every case where income tax returns or financial records are produced pursuant to a Production Order:
- 20.1. **Sealed Cover Procedure:** All records shall be transmitted in sealed covers. The seal shall not be broken except by the Court.
- 20.2. **Confidentiality Undertaking:** The Applicant Spouse and his/her advocate shall execute a written undertaking, on affidavit, that the information shall be used solely for the purpose of the maintenance proceedings and shall not



be disclosed, published, shared, or disseminated to any third party.

20.3. **Prohibition on Misuse:** Any misuse of the information obtained, including use for purposes other than the maintenance proceedings, defamation, harassment, or initiation of collateral proceedings based on the financial information, shall be viewed as contempt of Court and/or abuse of process.

20.4. **Protection of Third-Party Information:** Where the income tax returns or financial records contain information relating to third parties (such as business partners, associates, banks, or other individuals), the Court shall ensure that such third-party information is redacted or protected from disclosure to the extent it is not relevant to the maintenance proceedings.

20.5. **Limited Retention:** Copies of the records, if provided to the Applicant Spouse, shall be returned to the Court upon conclusion of the proceedings or upon the Court so directing.



20.6. **Judicial Record:** The records produced by the Income Tax Department shall form part of the judicial record and shall be subject to the same rules of confidentiality and access as other court records.

21. **Breach of Safeguards:** Any breach of the safeguards set out above by the Applicant Spouse or his/her advocate shall entitle the Court to:

21.1. Initiate contempt proceedings against the defaulting party;

21.2. Revoke the permission to inspect or retain copies of the financial records;

21.3. Draw adverse inference against the Applicant Spouse in the maintenance proceedings;

21.4. Award costs to the Assessee Spouse; and

21.5. Pass such other orders as may be deemed just and appropriate.

22. **Non-Compliance by the Assessee Spouse:** Where the Assessee Spouse fails to comply with the direction of the Court to disclose income and assets, the Court shall be entitled to:



22.1. Draw an adverse inference that the income of the Assessee Spouse is at least as stated by the Applicant Spouse;

22.2. Issue a Production Order to the Income Tax Department suo motu;

22.3. Award costs against the Assessee Spouse;

22.4. Impose such other penalty as may be permissible under law.

23. **Non-Compliance by the Income Tax Department:** Where the Income Tax Department fails to comply with a Production Order within the stipulated time without justifiable reasons, the Court shall be entitled to:

23.1. Issue a peremptory direction with a further timeline;

23.2. Summon the Designated Officer / Nodal Officer to appear in person and explain the non-compliance;

23.3. Initiate proceedings for contempt of Court;

23.4. Report the non-compliance to the Principal Chief Commissioner of Income Tax;



23.5. Award costs against the Department.

24. Applicability to Other Financial Authorities:

These guidelines shall apply, mutatis mutandis, to applications seeking financial records of a spouse from other authorities and institutions, including but not limited to:

24.1. The Goods and Services Tax (GST) Department, for GST returns and assessment records;

24.2. The Employees' Provident Fund Organisation (EPFO), for provident fund balance and contribution statements;

24.3. Banks and financial institutions, for bank account statements and loan records;

24.4. The Registrar of Companies / Ministry of Corporate Affairs, for company filings and directorship details;

24.5. Any other public authority or institution holding financial information of the Assessee Spouse.

25. **Savings Clause:** Nothing in these guidelines shall be construed as:



- 25.1. Limiting or curtailing the inherent powers of any court;
 - 25.2. Restricting the right of any party to seek production of documents through any other lawful mechanism;
 - 25.3. Overriding any specific statutory provision governing the production or disclosure of documents; or
 - 25.4. Creating any right to disclosure of financial information outside the judicial process or for purposes other than maintenance proceedings.
26. **Gender Neutrality:** These guidelines are gender-neutral. They apply equally to applications filed by a wife seeking financial information of the husband, and to applications filed by a husband seeking financial information of the wife. The pronouns used in these guidelines are for convenience only and shall be construed to include all genders.
27. **Communication and Dissemination:** A copy of these guidelines shall be:



27.1. Circulated to all Magistrate Courts, Family Courts, Sessions Courts and District Courts in the State of Karnataka;

27.2. Forwarded to the Principal Chief Commissioner of Income Tax, Karnataka and Goa Region, for circulation to all offices of the Income Tax Department within the jurisdiction.

Sd/-
(SURAJ GOVINDARAJ)
JUDGE

KTY, List No.: 2 SI No.: 38